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NEW YORK AS AN EIGHTEENTH CENTURY MUNICIPALITY

1731–1776

BY

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TO MY MOTHER

PAULINE E. EDWARDS

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CHAPTER I

Organization of Government under the Montgomerie Charter

In Part One was described the development of the city from quaint New Amsterdam of the seventeenth century into the more populous New York of the eighteenth. The following pages resume the thread of the narrative in the year 1731 and continue the study of the corporation of the city of New York into the momentous year 1776. These dates mark a definite epoch in the history of municipal government in New York. The year 1731 offers an appropriate beginning, for then the city secured the Montgomerie Charter which was to remain in force for over a century. About this time, also, the corporation of New York inaugurated several policies now considered important because of their bearing on the history of municipal development in the United States. We may here mention the levying of direct taxes, the securing of fire engines, and the acquisition of title to full riparian rights around lower Manhattan Island. The year 1776 is of course significant as the close of the colonial period and the date of Independence. Though the city fathers continued to hold sessions until almost the middle of that year, ruthless war soon paralyzed regular municipal administration.

A glance at the history of the mother country shows this to have been a period of notable progress abroad. Customs and policies of former days were rapidly yielding to newer influences. This epoch witnessed the final struggle of the

Stuarts and the establishing of the Hanoverian rulers, the passing of Walpole's peaceful administration and the inauguration of Pitt's imperialistic policy. Then followed the conflict with Spain, the contest of the Austrian Succession and the terrible Seven Years' War. War had then come to girdle the world, for these sanguinary struggles were waged in almost every land and on almost every sea. Out of this time of stress England emerged with her colonial empire secure and with a well-developed naval policy. Important internal changes also occurred. The corruption of Walpole's ministry was slowly giving ground before democratic principles, as seen later in the Wilkes' affair and in the episode of the Junius letters. Social progress of the time is apparent in the work of the Wesleys, of George Whitefield, and of other Methodists, for the uplift of the lower classes, and in the efforts of John Howard for the betterment of conditions in prisons. Improvement in commerce and in industry was also working a profound transformation in England.

These movements were not without their effects upon the municipality of New York. "Bonnie Prince Charlie," the young Stuart Pretender, had followers even in this distant land, although they were rather severely handled by the city magistrates, who on one occasion sentenced a Jacobite to the whipping-post.[1] The European struggles brought into the hearts of New York citizens fear of an attack by French fleets. This fear, caused by the city's exposed situation, is reflected in the *Minutes of the Common Council* in an order of February 19, 1745, "that in Case of Any Emergency that Cannot at present be foreseen by Reason of the City being Attacked by an Enemy Or by Reason of any other Unforeseen Accident, That the Deputy Clerk of

[1] Minutes of the Court of Quarter Sessions, May 8, 1745. Most of the records of this court are in the criminal court building.

this Board Use his best Endeavours to Secure the Records of this City by Removing them to Such place Within this Province as he Shall Think most Safe and proper." [1] The tidings of Braddock's defeat, the loss of Oswego, and the massacre at Fort William Henry shocked the inhabitants, the city having been free from the horrors of Indian warfare since the Dutch period.

Yet such dangers did not check the general progress of the community. Commercial prosperity in those years was creating great family fortunes. The growing movement for wider democracy met with enthusiastic response. British newspapers describing the latest escapades of John Wilkes and the Junius letters printed in pamphlet form were eagerly read by citizens of New York. Although the riotous scenes of the Stamp Act troubles appeared to the staid city fathers to be the result of an excess of democracy, nevertheless the same body ordered the common council chamber to be adorned with a portrait of William Pitt and gave ready permission for the erection of his statue in Wall Street.[2] The influence of Methodism was also felt, for George Whitefield himself preached in New York before large congregations.[3] Nor was progress in culture wanting. King's College was chartered in 1754, while earlier in the same year had been founded the New York Society Library.[4] Lectures on scientific topics, and others illustrated with stereopticon views, entertained the public, even in colonial days.[5] The theatre was also a popular form of

[1] *Minutes of The Common Council of the City of New York* (N. Y., 1905), vol. v, p. 146.

[2] *Ibid.*, vol. vii, pp. 20, 220.

[3] *New-York Weekly Post-Boy*, Dec. 16, 1754.

[4] Keep, *History of the New York Society Library* (N. Y., 1908), pp. 123-147.

[5] *New-York Mercury*, Jan., Feb., 1762.

amusement, and, though the plays were usually of a lighter vein, serious dramatic performances, such as "Cato," "Richard III" and "Romeo and Juliet," were presented.

As a result of these conditions, the years preceding the passage of the Stamp Act marked a relatively high point in the general development of New York, and have been referred to as the "Golden Age" in the history of the city. In this period, according to Judge Thomas Jones, a contemporary historian, "the Colony was extending its trade, encouraging the arts and sciences, and cultivating its lands. Its inhabitants were daily increasing in riches, in wealth and opulence.[1] The growth of the city is indicated by the following statistics, showing population during the years under review:

WHITE AND BLACK POPULATION OF THE CITY OF NEW YORK BETWEEN 1731 AND 1771[2]

YEAR	WHITES	BLACKS	TOTAL
1731	7045	1577	8622
1737	8945	1719	10664
1746	9273	2444	11717
1749	10926	2368	13294
1756	10768	2272	13040
1771	18726	3137	21863

However interesting a study of the social life of early New York might be, we must, in this work, confine ourselves chiefly to a consideration of governmental activity.

[1] Jones, *History of New York during the Revolutionary War* (N. Y., 1879), vol. i, p. 1.

[2] O'Callaghan, *Documentary History of the State of New York* (Albany, 1850), vol. i, pp. 471-474.

In this connection, we shall devote our attention first to the history and working of the Montgomerie Charter, then to the organization of the city government, and lastly to the relations of the municipality with the province of New York.

The last and most important charter of the colonial period was issued to the city of New York by Governor John Montgomerie in 1731. This instrument, which remained in force for over one hundred years, stands as a noteworthy document in the history of American municipal institutions. Chancellor James Kent, in 1836, observed: "It remains to this day with much of its original form and spirit, after having received by statute such modifications and such a thorough enlargement in its legislative, executive and judicial branches as were best adapted to the genius and wants of the people." [1]

Although the city of New York had received several grants prior to 1731, there were good reasons why another was deemed necessary by the prudent city fathers. One was their uneasiness, born of the knowledge that Governor Dongan had granted the first English municipal charter under the proprietary seal of the Duke of York and that Governor Lord Cornbury had issued an instrument only in his own name. A weakness inherent in both patents, therefore, was that neither had been bestowed by grace of the reigning sovereign, and thus they were not in a strict sense royal grants.[2] Another motive for a new charter was a desire on the part of the city authorities to secure a number of additional concessions. These, accordingly, to the number of eighteen were carefully itemized in a petition ad-

[1] Kent, *Charter of the City of New York with Notes* (N. Y., 1851), pp. 212-213.

[2] *Documents Relating to the History of the State of New York* (Albany, 1877-1883), vol. iv, p. 812; vol. v, p. 369.

dressed, under date of August 3, 1730, to Governor Montgomerie.[1] Chief among them were the following:

(1) The extension of the boundaries of the city to four hundred feet beyond low-water mark, on the Hudson and East Rivers, around lower Manhattan Island.

(2) The sole power of establishing ferries and of erecting docks, together with all profits accruing from such enterprises.

(3) A division of the city into seven wards, instead of six, as provided in the Dongan Charter.

(4) Certain judicial powers for the city government, namely that the mayor, recorder and aldermen be constituted justices of the peace, empowered to hear all pleas of forty shillings and under; the same officers also to possess the power of holding a quarter sessions of the peace.

(5) Ordinances of the common council, the legislative body of the city government, to remain in force for a year, instead of for three months, as heretofore.

(6) The mayor to be allowed to select a deputy.

(7) The offices of mayor, recorder, sheriff, coroner and town clerk hereafter to be elective instead of appointive.

All of these proposals, save the right to elect municipal officers, were granted by the governor and his council and were included in the new charter. But the city was not given these valuable considerations gratuitously, for Montgomerie, like most colonial governors, was unaccustomed to bestow favors without remuneration. It was generally known that this governor had voluntarily exiled himself from the Court of St. James's to the "plantations" in order to fill his sadly depleted purse.[2] Therefore, with full

[1] *M. C. C.*, vol. iv, pp. 5-8, 19-22.

[2] Wilson, *The Memorial History of the City of New-York* (N. Y., 1892), vol. ii, pp. 179-180.

understanding of the ways and means of persuading colonial governors, the common council, in April 1730, appointed a committee "to Consider, what further and proper Measures are Needfull to be pursued for Obtaining the Prayer to the said Petition." [1] At the next meeting of the board, the committee submitted its report, which was forthwith approved, with the statement that it was "the Unanimous Opinion of this Court that the sum of fourteen hundred pounds will be Needfull to be provided by this Corporation for Obtaining the said Charter, and it is hereby Order'd that the said Committee do Continue their Applications for Obtaining the said Charter." [2]

During the summer of 1730, Cadwallader Colden, scientist, historian and, nearly half a century afterward, acting executive of the province, was engaged by Governor Montgomerie to survey the proposed grant of 400 feet around lower Manhattan, a task for which he was duly compensated by the corporation.[3] In January of the following year, the common council raised the sum of £1,000 through a mortgage on certain lands, and also authorized an additional loan of £200.[4] Coincident with this financial move, Richard Bradley, attorney general of the province, reported to the governor that he "had perused the Charter and found nothing therein prejudicial to the interest of his Majesty." [5] Therefore on February 11, 1731, the charter was delivered with great ceremony to Mayor Robert Lurting by Governor Montgomerie in person.[6] For these services

[1] *M. C. C.*, vol. iv, p. 9.
[2] *Ibid.*, p. 11.
[3] *Ibid.*, p. 24.
[4] *Ibid.*, pp. 34-35.

[5] *The Colonial Laws of New York* (Albany, 1894), vol. ii, pp. 575-639. This volume contains a copy of the Montgomerie Charter. The original is deposited in the New York Public Library.

[6] *M. C. C.*, vol. iv, pp. 39-41. As the charter was formally delivered to the corporation on this date, it is preferable to consider 1731, rather than 1730, as the year of the granting of the charter.

the attorney general received from the grateful corporation a substantial fee.[1] Regarding the £1,000 raised by mortgage, we must admit that there is no direct evidence as to how it was used. One may readily imagine, however, that this tidy sum might well have been regarded as a quiet thank offering by a gratified corporation to the official who was publicly honored for all time to come in the bestowing of his name upon the new charter.[2]

Although Montgomerie nominally granted the charter, its validity was open to some question. To the document was affixed the great seal of the province, and it bears the signatures of Secretary Frederick Morris and Attorney General Richard Bradley, but it was never signed either by the governor or by the British sovereign. This manifest defect was appreciated both by the municipal and by the provincial officers. In an endeavor to strengthen the legality of their grant, the aldermen and assistants in 1732 secured from the provincial legislature an act confirming all rights and privileges of the corporation. This act was declared "effectual in the Law against the Kings Majesty, his heirs and Successors."[3] When Governor William Cosby, the successor of Montgomerie, sent this law to the Board of Trade in England, he took the opportunity to assail the charter. By the granting of the water-front to the municipality, he argued, "his Majesty's prerogative & interest may be in danger of suffering, and his ships stationed here under a necessity of becoming petitioners of the Corpora-

[1] *M. C. C.*, vol. iv, pp. 38-39.

[2] Furman, *Notes, Geographical and Historical relating to the Town of Brooklyn, on Long-Island* (Brooklyn, 1865), pp. 24-25. See also a pamphlet entitled *An Examination of the Validity of the pretended Charters of the Cities (sic) of New York* (Brooklyn, 1852), p. 26.

[3] *Col. Laws*, vol. ii, pp. 752-753. See difference between royal and parliamentary charters in England. Dillon, *Commentaries on the Law of Municipal Corporations* (Boston, 1911), vol. i, pp. 79-80.

tion for a convenient place to careen or refit." [1] The Board of Trade ordered a copy of the charter sent to England, but no action seems to have been taken in the matter.

Not even this confirmation by the provincial legislature satisfied the city authorities. They finally sought ratification from the king himself. Here Governor Cosby thwarted them by advising against confirmation, and no royal assent was apparently ever given either to the charter of Governor Montgomerie or to the confirmatory act of the general assembly.

In later years the legality of the Montgomerie Charter was the subject of active discussion, especially when the limits of the riparian rights of the city were questioned.[2] This subject was carried before the courts on more than one occasion, until finally the supreme court of the State of New York decided that the "signature of the king or governor to a patent or grant emanating from the crown was not necessary to its validity."[3]

Except for this omission of the royal signature, the Montgomerie Charter was similar in form to that of any grant to an English "borough" in the eighteenth century.[4] Following British precedent, the title of incorporation was "the Mayor, Aldermen and Commonalty of the City of New York." Thus was formed a body politic, composed of the municipal officers and of a limited number of per-

[1] *N. Y. Col. Docs.*, vol. v, p. 956.

[2] Stiles, *History of the City of Brooklyn, etc.* (Albany, 1863), vol. iii, p. 524; *Municipal Gazette*, June 24, 1846.

[3] Bogardus *vs.* Trinity Church, 4 Sanford, ch. rep. 735. Judge Murray Hoffman holds that the "governor was authorized to grant and convey, and the great seal of the province was the evidence of the transfer." *Treatise upon the Estate and Rights of the Corporation* (N. Y., 1862), vol. i, p. 26; also appendix, p. xviii.

[4] See article by Fairlie in *Municipal Affairs*, vol. ii, pp. 341-381.

sons known as "freemen" and "freeholders," who accordingly constituted the municipal corporation.[1]

The most important member of this corporation was the mayor, who, according to the charter, was annually appointed by the governor of the province on September 29. It was customary to reappoint an efficient mayor, so that his tenure in the later English period averaged seven consecutive years of service.[2] It was also the practice of the governor to choose an alderman for the position; consequently the occupants of the mayor's chair were usually well acquainted at the start with the machinery of municipal government. Moreover, the incumbents of the mayoralty, between 1731 and 1776, were almost always men of wealth and of good social standing. The mayor was removable during his term of office only by order of the governor, but no occasion for such action arose within this period. Although in many municipal corporations the presence of the mayor has been necessary for a legal meeting of the law-making body, this was not true of the common council of New York. The mayor possessed the power to vote in case of a tie, but he had no right to veto acts of the common council.[3]

The duties of the mayor's office were not extensive. Appropriations ordered by the common council were paid from the city treasury through his warrant. The mayor's power of appointment was relatively limited, for he was permitted to fill only minor positions such as those of mar-

[1] The qualifications of the "freemen" are described in the chapter on "Trade and Industry."

[2] The following statements concerning the organization of the city government are based mainly on a study of the *Minutes of the Common Council.*

[3] *Ibid.*, vol. v, pp. 190, 195, 340. See status of mayor as member of council. Dillon, *op. cit.*, vol. ii, pp. 834-838.

shals, porters, cartmen, cullers, criers and scavengers. He was also empowered to "Displace all or any of them and to put others in their room." [1]

The mayor, ex officio, had several other powers of importance, particularly that of granting tavern-keepers' licenses and those attaching to the offices of clerk of the municipal markets and "water bailiff." The liquor licenses netted a large revenue, and in 1736 there arose a prolonged controversy as to whether the corporation or the mayor was entitled to the receipts.[2] Mayor Paul Richard retained the sums which he had collected, but his action was roundly denounced by his official associates, who claimed that the charter placed all such revenue at the disposal of the common council. John Cruger, the elder, who succeeded Richard as mayor, continued to assert the same right, although it is difficult to suppose that he was prompted by avarice, since he was a wealthy and highly respected member of the local merchant aristocracy.[3] The same issue continued to be disputed until 1759, when the corporation filed a bill in the chancery court against the estate of its late mayor, Edward Holland, "for fees by him Received for the Issueing of Lycenses Granted to Retailers of Strong Liquors within this City during his Mayoralty." [4]

About the same time that the common council was trying to deprive Mayor Richard of fees received from granting liquor licenses, it was also demanding the sums collected by him as clerk of the market. In this capacity, the mayor had been accustomed to collect a small fee for every head of cattle that was slaughtered, and also for sealing weights used in the city markets. The attempt to deprive the mayor

[1] *Col. Laws*, vol. ii, p. 619.

[2] *M. C. C.*, vol iv, pp. 317-318.

[3] *Ibid.*, vol. v, pp. 116, 323.

[4] *Ibid.*, vol. vi, p. 190. A search of court records in Albany and in New York City failed to disclose the papers relating to this case.

of these collections was scarcely defensible, for the Montgomerie Charter expressly conferred upon him full "Authority to do and Execute . . . whatsoever to the Office of Clerk of the Market there doth Shall or may belong without any hindrance." [1] Despite this clause, an ordinance was passed in November, 1735, forbidding the mayor "to Intermeddle with the Receipt of any Dutys, Fees or Profitts, or take any money of any Butchers, or any Other persons," save for sealing weights and measures.[2]

Every mayor, in turn, stoutly attacked this ordinance, but the common council continued to reënact it, and occasionally the dispute reached the courts.[3] The controversy dragged on until, by 1760, the corporation found itself seeking settlement with the estates of three deceased mayors.[4] A compromise was finally effected, whereby one-half of the money collected by former mayors was ordered returned, and an explanatory clause to the city charter was sought to avoid future difficulties.[5] The entire subject of licenses was eventually adjusted, by allowing the mayor a fixed sum of £125 a year, as a perquisite of his office.[6] In addition, he was permitted to retain four shillings for every liquor license issued.

The mayor also held the office of "Bailif and Conservator of the water of the North and East Rivers." [7] This title was similar to that bestowed upon the mayor of any

[1] *Col. Laws*, vol. ii, p. 618.

[2] *M. C. C.*, vol. iv, pp. 291-295.

[3] *Ibid.*, vol. v, pp. 281, 325; vol. vi, p. 96.

[4] *Ibid.*, p. 209.

[5] *Ibid.*, p. 262.

[6] *Ibid.*, pp. 359-360. The office of clerk of the market was finally separated from that of mayor by an act of April 9, 1813; ch. 86, sec. 168. Kent, *Charter of New York*, p. 251. A similar controversy between mayor and council occurred in Albany. Munsell, *Collections of Albany*, vol. i, p. 142.

[7] *Col. Laws*, vol. ii, p. 618.

port town in England, and was merely nominal. The duties of the position may be likened to those exercised by customs and quarantine officers. This would mean, of course, the searching of all incoming vessels, but in New York this power was seldom exercised by the mayor. He did act in this capacity on the occasion of a smallpox epidemic, when he supervised the medical inspection of vessels hailing from infected ports.[1] In general, however, the mayor failed in his duties as water bailiff, and we find frequent criticism of his inactivity in this field.[2]

In case of the mayor's death, absence, or inability to serve, his powers could be fully exercised by a deputy mayor, who was an alderman appointed annually to this office by the mayor with the approval of the governor. This deputy might continue a session of the common council after the departure of the mayor, might issue warrants upon the treasury in his own name, could appoint important municipal officers, even such as "high constable," and could administer oaths of office to members of the corporation.[3]

The recorder, as in the early years of English rule, continued to be an important officer of the city government. His tenure of office, however, became less secure in these later days, characterized by violent political controversy. This is illustrated by the case of Daniel Horsmanden, who was appointed to the position of recorder by Governor Cosby, in 1735, as a reward for his adherence to the government party.[4] When, later, he joined the opposition to

[1] *M. C. C.*, vol. iv, pp. 429-430.

[2] *The Independent Reflector*, Dec. 28, 1752.

[3] *M. C. C., op. cit., passim.* These powers, in a general way, were vested later in the president of the board of aldermen. Kent, *op. cit.*, p. 217.

[4] *M. C. C.*, vol. iv, pp. 255-256.

Governor George Clinton, he was summarily removed from office.[1] A lawyer was always selected as recorder, since the functions of the office were mainly legal and judicial in nature. He acted as corporation counsel, giving legal advice to the city officers, drafting ordinances, aiding in the revision of municipal by-laws, and in 1730 preparing a new charter.[2] As the corporation could "sue and be sued," it was the duty of the recorder to prepare the cases of the city for presentation in the provincial courts.[3] He was also a member of the common council, and, as such, possessed extensive powers. In the absence of the mayor, he could convene the municipal board, preside at its sessions, swear in city officers, issue orders on the city treasury in his own name, and could, in fact, exercise all the powers of the chairman. The recorder generally took an active part in both the debating and the voting at board meetings.[4] He served also on committees appointed for various purposes, such as to suppress gambling houses, to discharge corporation bonds, to settle election disputes.

Moreover, the office of recorder at times brought the municipality into closer contact with the provincial government, inasmuch as a governor appointed in several instances a member of his own council. This was true in the case of Francis Harison, Daniel Horsmanden and John Watts, all of whom were also members of the governor's council during their terms of office as recorders.[5]

[1] *Col. Docs.*, vol. vii, p. 528.

[2] *M. C. C.*, vol. iv, pp. 9, 47, 272.

[3] *Ibid.*, pp. 303-304.

[4] As stated above, the deputy mayor might also act as chairman; apparently there was no fixed rule of procedure, for we find instances of the recorder presiding with the deputy mayor present, and *vice versa*. *Ibid.*, vol. v, pp. 43, 46.

[5] See *infra*, p. 39.

Because of this peculiar two-fold position, it was within the power of the recorder to affect materially the interests of the corporation. On more than one occasion his influence with the provincial authorities warded off attacks upon corporate rights of the city, or saved it from hostile legislation. However, it must be borne in mind that the recorder was in a way a representative of the provincial government in the common council; and his fellow members in that body on several occasions manifested suspicion of his good faith. It should not, therefore, be astonishing to find that the recorder was often an object of attack by the common council. A charge of falsely imprisoning a citizen was brought against one recorder. The common council made several attempts to reduce the powers of the recorder and to abolish the perquisites of his office. In 1765 the question arose as to whether he possessed the right to vote in the common council in the presence of the mayor, and it was submitted to the opinion of three leading attorneys.[1] One of them, William Smith, Jr., denied that the recorder had a vote when the mayor was present.[2] Another, John Morin Scott, held that this right was vested in the office by charter, but qualified his opinion with the suggestion that a test case be brought, that the question might be decided by the courts. The third, William Livingston, supported the recorder unconditionally. On the basis of these reports the common council permitted the recorder to retain the full right to vote. The board was successful, however, in depriving the recorder of certain fees of his office. In the past he had been permitted to collect six shillings from persons admitted as "freemen" of the corporation. But in 1750, and again in 1769, the corporation repealed the

[1] *M. C. C.*, vol. vi, pp. 408-409. [2] *Ibid.*, pp. 424-426.

ordinance granting him this privilege, thereby depriving the recorder of a very profitable source of income.[1]

Another busy officer of the city government was the "common clerk." As town clerk, he recorded the minutes of the common council and of the city courts, sent petitions to the provincial government, and filed reports of the tax-collectors.[2] In addition to keeping the municipal court records, he also served as court stenographer. As the business of the corporation expanded, it became impossible for one person to perform all its secretarial work; so the clerk was permitted to choose deputies.[3] Like the recorder, this responsible officer was appointed by the governor and held office during good behavior.[4] As a matter of practice, the term of the town clerk was long; from 1692 to 1776, a period of eighty-four years, only three incumbents held this office. William Sharpas served from 1692 until his death in 1739, when he was succeeded by John Chambers, gentleman, later a judge of the supreme court.[5] The latter resigned in 1753, and was succeeded by Augustus Van Cortlandt, who remained in office until the outbreak of the Revolution.[6]

The aldermen and assistants were chosen annually by the voters of the city. The principle of direct representation was maintained, each of the seven city wards electing one

[1] *Ibid.*, vol. v, p. 284; vol. vii, p. 147. By an act of April 7, 1830 (ch. 122, sec. 16), the recorder ceased altogether to be a member of the Common Council, and became exclusively a judicial officer. Kent, *op. cit.*, p. 217.

[2] *M. C. C.*, vol. iv, pp. 130-131.

[3] *Ibid.*, vol. v, pp. 212, 331, 353.

[4] *Col. Laws*, vol. ii, p. 624.

[5] *M. C. C.*, vol. i, p. 286; vol. iv, p. 479. Biographical sketches of the clerks are contained in Valentine, *Manual of the Corporation of New York* (1860), pp. 608-610.

[6] *M. C. C.*, vol. v, pp. 402-404.

alderman and one assistant. Both were obliged to be residents of the ward from which they were returned. They were, therefore, directly responsible to their constituents, and were expected to defend the interests of their respective wards on every occasion.

The aldermen and the assistants, together with the mayor and the recorder, formed the municipal legislature known as the common council. The assistants were often known as "common councilmen," and, with the exception of petty formalities, they possessed legislative rights similar to those of the aldermen. The title of "Esquire" was omitted after their names, and they were not permitted to sit with the mayor, recorder, and aldermen as magistrates. The meetings of the common council were usually held in the City Hall, although at times it adjourned elsewhere. For leasing municipal ferries or selling public lands, the board often convened at a tavern or coffee-house. Although the common council did not meet at stated times, it was customary for it to assemble about every fortnight. In later years, when the expenditures became heavier, the common council met on the first Wednesday of every month, to issue warrants for the payment of the corporation's debts.[1] The aldermen attended meetings far more regularly than did the assistants. To check tardiness and absence, the common council ordered

that Every Member of this Board who Shall hereafter be Summoned to attend after notice given to him or to some white person of the family and who shall not attend within half an hour after the ringing of the Bell Shall forfeit two Shillings and Six pence and if he shall not attend at all that day after such Summons Shall forfeit five Shillings to be paid to the Clerk of this Board.[2]

[1] *M. C. C.*, vol. vii, p. 245.

[2] *Ibid.*, vol. v, pp. 218, 287.

Later the time limit for tardiness was reduced to one-quarter of an hour, after which a member was fined one shilling; a penalty of two shillings was applied for absence without reasonable excuse.[1]

Under the wording of the charter, the members of the common council were given power to "make and Establish from time to time all Such Laws Statutes rights Ordinances and Constitutions which to them . . . Shall Seem to be good usefull or necessary for the good rule and government of the body corporate."[2] Still, the municipality was not given general powers of legislation, for the charter subjected the common council to several limitations. Its ordinances must not be repugnant to the laws either of England or of the province. Besides, all by-laws of the common council remained in force for but one year unless confirmed by the governor and council of the province. Nevertheless it appears that the corporation did not seek the approval of the province for its ordinances, preferring instead to reënact them as a whole every twelve months. This was done merely by reciting the titles of the by-laws and ordering their continuation for another year. Through this formality one intended check upon municipal legislation was rendered ineffectual.

The nature of ordinances enacted by the common council will be treated more fully in succeeding chapters on municipal administration. In general, we may here characterize the major part of these ordinances as "police" legislation in the broad sense of this term. Among them, we find rules "for the better prevention of fire," "regulating negroes, Mullattoes and other slaves," "preventing nuisances in streets," prohibiting peddlers, restraining the selling of liquor to soldiers, and relating to similar matters. The regulation of business relations also formed a subject

[1] *M. C. C.*, vol. viii, p. 35.

[2] *Col. Laws*, vol. ii, p. 610.

of deep interest, and explains the passing of many enactments regarding public markets, slaughter-houses, and docks, as also the sale of hay, wood and foodstuffs.

The right of appointment, with the exception of the officers whom the mayor and the governor selected, was vested in the common council. It possessed absolute power to choose, or to dismiss at will, inspectors of flour and other foodstuffs, measurers of grain, gaugers of liquors, beadles, "watchmen" (policemen), court attendants, and keepers of municipal institutions for charities and correction.[1]

The common council by charter was vested with extensive administrative powers, due to what may be termed its committee system. Small groups of its members were appointed to direct the exercise of various functions. There were committees for auditing the accounts of the treasurer, for arranging terms of lease of municipal properties such as ferries, docks and markets, and for superintending public improvements such as paving of streets, erecting a new jail, repairing the City Hall, and constructing water works. At first, these committees were chosen indiscriminately, but after 1750 the common council formulated "a Standing Rule of this Board that whenever a Committee shall be appointed for the future for any matter or thing to be done in any of the wards of this City that the alderman of such ward shall be Chairman of such Committee."[2] This regulation was generally observed; for, directly after election day, if changes in the personnel of the board had occurred, the new aldermen and assistants were appointed to all committees on which outgoing members from the same wards served.

The extensive judicial powers which the corporation had inherited from its prototype, the English borough, were

[1] *Col. Laws*, vol. ii, pp. 614-615.

[2] *M. C. C.*, vol. v, p. 304.

continued during the later colonial period. The "Mayor's Court" and the "Court of General Quarter Sessions," as described in the chapter on the earlier period, constituted the municipal tribunals, the former hearing civil cases, the latter criminal.[1] As the composition and jurisdiction of these two courts have been fully explained in the preceding volume, it is necessary for us to note only those changes introduced after 1731.

In 1732 the provincial legislature passed an act "for the speedy punishing and releasing Such persons from Imprisonment as shall Commit any Criminal offences in the City of New York under the Degree of Grand Larceny."[2] Heretofore offenders unable to furnish bail, pending trial in general quarter sessions, were detained in the city jails—at the expense of the corporation it is true, but "at the same time their long Imprisonment . . . [was] a great damage to many of their families, who wanted their Labour to support them". Such a policy having proved burdensome to the government as well as to the individual, it was provided that the mayor, deputy mayor, or recorder, sitting with any two magistrates, should constitute a court to determine the punishment of an offender who failed to produce bail forty-eight hours after having been apprehended. If convicted, the criminal received corporal punishment at the hands of the "publick whipper" and was ordered to leave the city within two days.

Still another change in judicial procedure was ordained by the general assembly. As the mayor's court was exclusively a municipal tribunal, the Montgomerie Charter had given the justices the right to designate, with the approval

[1] Daly, *Historical Sketch of the Judicial Tribunals of New York from 1623 to 1846* (N. Y., 1855). Succeeding chapters contain cases illustrating the jurisdiction of these two courts.

[2] *Col. Laws*, vol. ii, pp. 766-768.

of the governor, those who might practice before them. If the governor concurred, the court could also remove any lawyer for misbehavior. As a result, a monopoly of the legal business was created by limiting the number of attorneys. These restrictions naturally proved irksome to the other lawyers in the province.[1] After an appeal to the general assembly in 1746, it was enacted, over the protest of the corporation, that all attorneys practicing in the supreme court might exercise the same right in the mayor's court.[2]

The popular attitude toward the judiciary in colonial times was apparently unfriendly. A broadside from the press of John Peter Zenger in 1734 contained the following caustic reference to the partiality of the courts for the upper class: If "any great Man should draw his Indignation, and whip you through the Lungs; or with a stone or Brick-Batt knock your Brains out, [and] he should be presented by the Grand Jury, Pray what Notice would be taken of it? If we may guess at what will be, from what has been; I believe very little."[3] Under date of September 13, 1752, the *Independent Reflector*, a weekly paper edited by persons of liberal political ideals, contained a sharp criticism of those justices "who stand in more Awe of a Band of Carmen [cartmen] than of an armed Host; because that proceeds not so much from natural Timidity, as a more political Reason." Indeed, it is little wonder that prudence dictated the acts of the magistrates, since they were under the necessity of seeking votes every fall in order to remain in office.[4]

[1] *Journal of the Votes and Proceedings of the General Assembly of the Colony of New-York* (N. Y., 1764), vol. i, p. 627.

[2] *M. C. C.*, vol. v, p. 165; *Col. Laws*, vol. iii, pp. 546-548.

[3] Broadside, dated Sept. 8, 12, 1734, in N. Y. Pub. Library.

[4] Contemporary criticism of the courts is also contained in the *Post-Boy*, March 5, 1750; *Mercury*, Feb. 21, 1755.

Thus far we have considered only the internal features of the city government. But we must remember that as an eighteenth-century municipality it was merely an agent of the provincial government, devised, as Goodnow aptly says, "for the discharge of those functions interesting the state government which demanded local treatment." [1] It is therefore always necessary to be mindful of this dependent position of a municipal corporation as we view its relations to the provincial government.[2] The provincial legislature, it seems, possessed a certain amount of control over municipal affairs, the Montgomerie Charter itself being embodied in the colonial laws. Moreover, the act which it passed in 1732, confirming the grant of Governor Montgomerie, is referred to as "a general and publick Act of Assembly." [3] We observed an exercise of the general assembly's power above, in the act permitting attorneys of the supreme court to practice in the mayor's court. The statute concluded with the statement that this change in judicial procedure was effective, "Notwithstanding the Charter of the said City, and the Act of the Governour, the council & General Assembly of this Colony for confirming the Same."[4]

A number of provincial acts supplementing the city charter will be cited under appropriate headings in later chapters. It will be shown that the police power of the municipality was affected by provincial acts ordering non-inflammable material for roofs, and determining the number of firemen and fire engines in the city. The repairing of pumps and wells, the maintenance of roads within the city limits, the erecting of bridges, the rates to be charged on

[1] *City Government in the United States* (N. Y., 1904), p. 35.

[2] Dillon, *op. cit.*, vol. i, pp. 57-60. In New York the control over local administration was more extensive than in New England. Fairlie, *Centralization of Administration in New York State* (N. Y., 1897), pp. 11-12.

[3] *Col. Laws*, vol. ii, pp. 752-753.

[4] *Ibid.*, vol. iii, pp. 547-548.

the ferries, all were included within the scope of provincial legislation. The corporation was especially dependent upon the legislature of the province in financial matters. With the expansion of municipal activity, the need of sufficient income became a very pressing problem, and the only solution lay in direct taxation.[1] But as this power was not inherent in the corporation, it was under the necessity of petitioning the general assembly whenever it decided that a tax on real or personal property was needed to meet municipal expenses.

Although many of these acts amplified the powers of the corporation, provincial legislation, of a nature decidedly hostile to the city, was frequently attempted. Bills against the interests of the corporation were at times proposed, but for various reasons failed to pass both chambers of the legislature. An explanation of this hostility and also of the defeat of unfriendly acts lies in the political organization of the provincial legislature. This body consisted of two houses, the assembly, whose members were elected by popular vote, and the council, appointed by the crown. In the former the city had but four representatives out of a total of twenty-seven. Its political power was further limited after 1745. Until this year, assemblymen of the rural counties would occasionally take up residence in New York, in order to be near the seat of government, and, according to the British practice of representation, a resident of the city might serve as a member from an outside district. The house, however, refused to accept this theory in the case of Edward Holland, elected to the assembly from the township of Schenectady, and he was rejected on the ground of being a non-resident.[2]

[1] See chapter ix.

[2] *Journal of the Legislative Council of the Colony of New-York* (Albany, 1861), vol. ii, p. 1706. Smith, *History of the Late Province of New-York* (N. Y., 1830), vol. ii, pp. 92-93.

The animosity toward the city was centered mainly in the counties around Manhattan, namely, Westchester, Richmond, Kings and Queens. The extent to which this enmity was carried will be shown in succeeding chapters in describing the attempts of Westchester to nullify ordinances regulating city markets, of Richmond to alter prices fixed by the common council, and of Kings actually to repeal the charter. In brief, the feeling was due to the constant clash between the agricultural interests of the province and the commercial element resident in the city.

The unfriendly attitude of the rural districts manifested itself especially in apportioning direct taxes among the several counties. Although statistics as to the amount of taxable wealth throughout the province are not available, still several interesting conclusions regarding the equity of the distribution of taxes may be derived from a comparison of the population and quotas of the city and the province. From figures presented above it is evident that the city of New York contained considerably less than one-fifth of the total number of inhabitants of the province—a ratio which remained relatively constant throughout the later colonial period. But in decided contrast to this was the city's ever-rising quota of provincial taxation. For a time the assignment to the city varied from one-fifth to one-fourth, but gradually one-third came to be regarded as its regular portion.[1]

The tendency of the legislature thus to transfer the burden of provincial taxation to the city caused considerable adverse comment. William Smith, the historian, remarked that "the members for the metropolis always complain of the intrigues of the country gentlemen, in loading their

[1] *Jour. Leg. Coun.*, vol. ii, pp. 915-917. Schwab, *History of the New York Property Tax* (Baltimore, 1890), p. 59.

city with a third part of the public burdens, for the ease of their own counties." [1] Regarding the equity of this assignment, we have the statement of the upper house of the provincial legislature, "that no one can be of the opinion that the Real & personal Estates of the Inhabitants of the City & County of New York do amount to near one third of the value of Real & personal Estates of the whole Province." [2]

At times the portion of the city's taxes even exceeded one-third. In 1744 the quota required of the city was £1,569, almost one-half of the entire levy, and the only justification for this exorbitant proportion was that the money so raised would be spent in erecting defenses for the city. Two years later, the lower house, in distributing the quotas for a tax of £10,000, endeavored to saddle forty-four per cent of it upon the city, but the plan was defeated in the upper chamber.[3]

In the struggle against the rural interests, the city's representatives generally found political allies in the members from Albany. Commerce and trade formed the leading occupations in both New York and Albany, and occasionally their representatives pooled votes in efforts to resist aggression on the part of the agricultural counties.[4] New York citizens eagerly sought this assistance "against the unmanly and ill-policied envy of lower counties." [5] Both cities, moreover, were exposed to attacks from foreign

[1] Smith, *op. cit.*, vol. ii, p. 97. *Jour. Leg. Coun.*, vol. ii, p. 1706.

[2] *Ibid.*, vol. ii, p. 916.

[3] *Jour. Assemb.*, vol. ii, pp. 95-99, 101, 109-110. *Jour. Leg. Coun.*, vol. ii, pp. 916-917.

[4] Spencer, in the *Political Science Quarterly*, vol. xxx, pp. 420-423.

[5] Broadside addressed to "The Representatives in General Assembly, for the City and County of New York," under date of Feb. 1774, in Library of N. Y. Hist. Society.

enemies, and it was therefore to their common interest to see that suitable appropriation for defense should be made by the assembly. Being more or less protected from invasion by the buffer counties of New York and Albany, the interior districts usually voted against large military budgets. Again New York and Albany were both incorporated cities. Therefore attacks upon the vested rights of one might react unfavorably upon the charter and franchises of the other.

This alliance, however, proved too weak to defeat hostile legislation in the assembly, and the only recourse lay in the governor's council, which possessed in general the power of rejecting bills coming from the assembly. Referring to the general apportioning of taxes, William Smith, the contemporary historian, wrote that "but for the fears [of the members of the assembly] of losing their bills in the council, which is generally composed of citizens of influence, a still greater share would fall upon the small island forming the city and county of New York." [1] A bill of the assembly concerned with the ferry across the East River did not become law, because the upper house deemed it a violation of the chartered rights of the corporation.[2] Several other bills regulating the municipal markets and the sale of hay and wood, which were defeated in the council after passing the assembly, will be described in the chapter on "Trade and Industry."

Why did the governor's council exhibit this friendly attitude toward the corporation? It may have been indirectly the result of the action of the city in allowing the council the use of a room in the City Hall for its deliberations. There, for the most part, its meetings were held. We see, therefore, how very convenient it was for Alderman

[1] Smith, *op. cit.*, vol. ii, pp. 97-98.

[2] See chapter viii.

Simon Johnson, for instance, to meet Councilor Cadwallader Colden and to persuade him to vote against a particularly obnoxious bill from the assembly. Another reason was that, out of a total membership of ten, several of the active councilors generally were residents of the city. Certainly Manhattan members could attend more regularly than those residing at a distance. At all events, it is a significant fact that some members of the common council always had seats in the governor's council.[1]

The governor, as well as the legislature, exerted considerable control over the corporation, since he appointed the mayor, the recorder, the town clerk, the sheriff and the coroner. Without referring in detail to events connected with provincial politics, it may be said in brief that the relations between the provincial executive and the city were generally harmonious.[2]

Considering, lastly, the relations between the city and the provincial judiciary, we are further impressed by the dependent position of the municipality. Organized as a corporation before the law, it could sue and be sued without reservation.[3] The supreme court on one occasion dealt severely with the common council, when the latter passed an ordinance defining the uses of the city seal.[4] This was really a direct attack upon Mayor Paul Richard, an appointee of Governor Cosby. The latter lost no time in having suit brought against the corporation in the name of

[1] We may cite particularly the following individuals: Mayors, Stephen Bayard, Edward Holland; Recorders, Francis Harison, Daniel Horsmanden, John Watts; Aldermen, Philip Livingston, John Moore, Oliver De Lancey.

[2] Apparently the only exception occurred in the administration of William Cosby.

[3] Parchment rolls of actions in which the city was a party have been carefully filed in the county clerk's office and are now accessible.

[4] *M. C. C.*, vol. iv, pp. 264-265.

the king, on the ground that the particular ordinance was "Conceived to be unreasonable and against Law."[1] The common council was formally notified of this action before the supreme court, and, knowing what to expect from a judiciary controlled by Governor Cosby, it hastened, at its next session, to rescind the ordinance.[2] When the corporation appeared before the bar of justice, it was thus able to plead that it had rendered "null and void the By Law therein mentioned."[3]

Direct nullification was not the only means used by the supreme court to influence the corporation. Following a serious epidemic of yellow fever, due to a laxity in enforcing ordinances on public sanitation, the corporation was indicted and prosecuted in the supreme court for "Sundry Nuisances."[4] The members of the common council were considerably agitated over the action of the court and lost no time in enacting regulations to remove the objectionable conditions.[5]

The indictment of the Oswego Market, the property of the corporation, may be cited as another illustration of judicial interference. This building, it was claimed, was obstructing traffic on Broadway.[6] Negotiations on the part of the common council failed to save the old market and the sheriff demolished it by order of the court.[7]

Lastly, in the case of Hendrick Remsen *vs.* Mayor, Aldermen and Commonalty of the City of New York, the supreme court decided against the defendant, with the re-

[1] *M. C. C.*, vol. iv, pp. 288-289.
[2] *Ibid.*, pp. 290-291.
[3] *Ibid.*, pp. 303-304.
[4] *Ibid.*, vol. v, pp. 111-112, 116.
[5] *Ibid.*, pp. 113-114, 118-121.
[6] *Ibid.*, vol. vii, pp. 259-260.
[7] Minute Book, Supreme Court of Judicature, Jan. 17, 1771, Hall of Records.

sult that the municipality lost its valuable monopoly of ferries across the East River.[1]

We may now briefly summarize the chief features of the relations between city and province. Municipal home rule, in the theoretical sense of the term, did not exist. As we have seen, the lower house of the provincial legislature was invariably antagonistic, at least where the interests of the city were in conflict with those of the rural counties. On occasions the provincial judiciary also interfered in local administration, but the governor and his council were generally friendly in their attitude.

[1] See chapter viii.

CHAPTER II

Political Aspects

The preceding chapter has dealt with the organization of the city government as it existed in the later colonial period. In that description, little consideration was therefore given toward showing how the actual working of that government was influenced by current political conditions. The city of New York, in colonial times, occupied a place of general importance in the political as well as in the commercial affairs of the British colonies.

Annual municipal elections were rare in British America, being held only in Philadelphia, Albany and New York.[1] In the last-named especially, they were very important, perhaps as much so as they are today. The larger questions of municipal politics, in which we are naturally interested, are the extent of the suffrage, the conduct of elections, and the influence of economic and denominational interests upon the voters.

As explained in the previous chapter, all members of the common council, except the mayor and the recorder, were elected officers. It is indeed astonishing that the charter granted to the corporation by Governor Dongan contained such liberal provisions regarding suffrage, at a time when King Charles II was attacking the municipal privileges of London, and vacating the charters of numerous English boroughs.

[1] McKinley, *Suffrage Franchise in the Thirteen English Colonies in America* (Phila., 1905), pp. 222-223, 298. Bishop, *History of Elections in the American Colonies* (N. Y., 1893), p. 215.

The vote in municipal elections was granted to "freeholders" and "freemen" of the city. The former were those who possessed estates in the city valued at over £40; the latter were residents of the municipality enrolled as members of the commonalty who plied a specific occupation.[1] These qualifications were not rigidly observed and caused endless dispute at the polls for many years until, in 1771, the provincial legislature passed a law which finally established definite regulations.[2] According to this statute, the electors in each ward were to be qualified one month before election day in order to vote. At that time the freeholder must claim ownership of property in the ward, and a freeman residence. Besides, the freeman was also required to have his "freemanship" three months before election day. In the early years the number of freemen remained comparatively small, as the corporation of the city of New York was not very liberal in granting the freemanship. But after the middle of the eighteenth century, when a wave of democracy swept the entire province, this policy was reversed, and in consequence suffrage was considerably extended. We are told that in 1765, in one day alone, "at the Mayor's Court, 216 Inhabitants of the City took up their Freedom, and it is supposed that there were as many more ready to apply for it; but the Court being tired, and not having Time for it, adjourned for 4 Weeks."[3] At the provincial elections held in 1769 for the assembly, 506 voted as freeholders, 602 as freemen, and 407 as both freeholders and freemen.[4]

[1] *Col. Laws*, vol. v, p. 229. The position of freeman is explained in the chapter on "Commerce and Industry."

[2] *Col. Laws*, vol. v, pp. 229-236.

[3] *Mercury*, Oct. 7, 1765.

[4] *Copy of the Poll List of the Election for Representatives for the City and County of New-York . . . in the year of our Lord MDCCLXI.*

A nice question here arises regarding the municipal suffrage rights of a freeholder, *i. e.* whether he was privileged to vote in more than one ward provided he owned property to the value of £40 in other wards. Such plural voting was permitted by the province; in fact, the polls in the election of members to the assembly were kept open for several days to allow country residents, owning property valued at over £40, to reach the city in time to cast their votes for city members.[1] In thus giving a property owner more than one vote, the province was merely following English custom of plural voting. In the election of aldermen and of assistants, however, we cannot be sure that this was the case. Though the contemporaneous data before 1771 are somewhat confusing, they leave the impression that in the city no freeholder was supposed to have more than one vote. On this subject the language of the Montgomerie Charter is not very clear, merely stating that the vote shall be given to "the ffreemen of the Said City being Inhabitants and the ffreeholders of Each respective ward in the Said City."[2] We have evidence that on one occasion in the early years of our period, voting by a property holder outside of his own ward was the object of special criticism and called forth comment from one of the local newspapers.[3] There is little doubt as to the practice which was followed after 1771, for the provincial statute of that year defined the manner of conducting elections in the city, and required every freeholder and freeman to swear that he had "not been before Polled at this Election."[4] That this law once and for all established the principle of "one man, one vote," becomes more apparent in the provision ordering

[1] McKinley, *op. cit.*, p. 217; *Assemb. Jour.*, vol. i, p. 712.
[2] *Col. Laws*, vol. ii, p. 606.
[3] *Journal*, Oct. 7, 1734.
[4] *Col. Laws*, vol. v, p. 228.

owners of freeholds on the east side of Broadway, which ran through both the North and the West Wards, to vote only in the former.[1] It might be inferred from this that certain freeholders had tried to vote in two wards.

In the province of New York religious qualifications barred only a small percentage from voting, a remarkable condition when compared with the narrow policy often practiced in the nearby New England colonies. Jews and Catholics were the only persons excluded on this ground, even Quakers having equal rights with persons of other denominations.[2]

We possess original data from which the extent of suffrage in the city of New York may be estimated. This evidence is summarized in the following table.

From the figures given below we may safely conclude that, although at the granting of the Montgomerie Charter, in 1731, about seven per cent of the total white population actually voted, within thirty years this proportion had risen considerably. These figures show a remarkably extensive suffrage, especially if compared with Philadelphia, where, even under the rule of the Quakers, only two per cent of the total population qualified as voters.[3]

Let us now see how a municipal election in colonial times was actually conducted, by taking that held in 1770 as a typical example. Abraham P. Lott and George Brewerton, Junior, were rival candidates for the office of alderman of the West Ward. The former was a well-known merchant who had formerly served as assistant and later as alderman of the ward.[4] We find Brewerton registered on the lists of

[1] *Col. Laws*, vol. v, p. 231.

[2] Smith, *Hist of N. Y.*, vol. ii, pp. 47-48; *Assemb. Jour.*, vol. i, p. 712; McKinley, *op. cit.*, pp. 214-215.

[3] McKinley, *op. cit.*, p. 292.

[4] *M. C. C.*, vol. vi, pp. 351, 390; vii, p. 126.

NUMBER OF VOTES CAST IN ELECTIONS HELD IN THE CITY OF NEW YORK

Year of Election	Total White Population[1] (Estimated)	Provincial Elections		Municipal Elections		
		Total Votes Cast	Per cent of Votes to White Population	Votes Cast	Per cent	Number of Wards
1734.....	7999	.....	.....	442[2]	5.5	6
1735.....	8317	812[3]	7.3	66[4]	.....	1
1761.....	13418	1447[5]	10.7	.....	.....	.....
1768.....	17128	1927[6]	11.2	.....	.....	.....
1769.....	17664	1515[7]	8.5	281[8]	.....	1
1770.....	.....	.....	.....	583[9]	.....	1
1773.....	.....	.....	.....	264[10]	.....	1
1775.....	.....	.....	.....	267[11]	.....	1

the freemen as a "gentleman," and he therefore represented social standing.[12] He depended upon the political support of his relatives, Alderman George Brewerton and Common

[1] The population is estimated by the method of arithmetical progression from known census figures.

[2] *M. C. C.*, vol. iv, p. 223; *Journal*, Oct. 7, 1734. No returns were given for the Out Ward. The account adds that in the other wards there were "many more ready to poll for the new candidates," but these votes were not included in the canvass.

[3] Valentine, *Manual of the Corporation* (1869), p. 851.

[4] *M. C. C.*, vol. iv, p. 279.

[5] Poll list for 1761.

[6] Poll list for 1768.

[7] Poll list for 1769.

[8] Report, dated Oct. 13, 1769, "of a committee upon the Scrutiny for Alderman and Common Councilman of the Out Ward," in filed papers, city clerk's office.

[9] Filed papers, city clerk's office.

[10] *M. C. C.*, vol. vii, p. 403.

[11] *Gazette*, Oct. 2, 1775.

[12] *Burghers of New Amsterdam and the Freemen of New York* (Collections, N. Y. Hist. Society, 1885), p. 197.

Councilman Jacob Brewerton, at the time members of the board. This family had been conspicuous for its active espousal of the conservative cause in the elections for the assembly in 1768. The contest between such prominent candidates as Lott and Brewerton aroused general interest.

September 29, Michaelmas Day, which had been from time out of mind the day for the annual election of municipal officers, was at hand. After the freemen and freeholders of the ward had assembled at the polls, and had expressed preference for either Lott or Brewerton, the votes were counted. It was found that Alderman Lott had been re-elected, receiving 301 votes as against 282 for his opponent; but Peter T. Curtenius, retiring assistant, had been defeated by Abraham Mesier by a vote of 286 to 292.[1] In the afternoon, when polls in all the wards had been closed, the common council convened to receive official returns, and prepared to hear petitions for a recount.[2] At this meeting, the contest for the leading offices in the West Ward was continued. Mr. Lott returned himself as alderman and reported that Mesier had been chosen to succeed Curtenius as common councilman, giving also the names of those elected as collector, assessor and constable of the West Ward, respectively. Brewerton, the defeated candidate for the office of alderman, was present to protest the returns as given by Mr. Lott, and to request a recount of the votes on the charge that there had been "some undue Methods & unfair practices used in the Course of the said Election by his opponent."[3] In support of his contention, Brewerton submitted an affidavit of several electors who declared that they, "Conceiving themselves Justly Entitled to give their Votes at the late Election for alderman and

[1] "List of Good and Bad Votes" in filed papers, city clerk's office.
[2] *M. C. C.*, vol. vii, pp. 229-232. [3] *Ibid.*, p. 232.

common councilman for the West-ward of this City . . . did then offer to give their Votes in favor of George Brewerton, Junior and Abraham Mesier, but were not admitted." [1] The Common Council thereupon decided to investigate the returns and ordered that "each party make out a List of the Voters they respectively object to, and point out at the end of each List the Cause of Objection and that they then Changed their Lists." [2]

On Saturday morning, October 13, the common council met expressly for the purpose of settling election controversies. Pending the examination of the poll lists, Alderman Lott withdrew from the board, as also did Alderman George Brewerton and Common Councilman Jacob Brewerton, relatives of the defeated candidate, since they were all personally interested in the outcome. Both sides submitted the names of such persons as were said to have voted illegally. After closely scrutinizing all data, the common council rendered a decision upholding the election of Lott.

What the "unfair practices" were with which Brewerton charged his opponent, are not mentioned in the petition of the defeated candidate. However, from other sources it is very apparent that corrupt methods were practiced extensively at colonial elections held in New York City. One citizen, describing his experiences in a letter to the *New-York Gazette*, stated that one evening, while passing through a street in the West Ward, he observed a large, noisy crowd collected at a small inn. Upon inquiring for the cause of the commotion, he was informed that "a dramshop was opened, and that every Freeholder or Freeman, who was willing to part with his vote, might there meet with a purchaser." [3] The *Independent Reflector*, a

[1] Affidavit in filed papers, city clerk's office.

[2] *M. C. C.*, vol. vii, p. 232 *et seq.*

[3] *Gazette*, Feb. 15, 1768, broadside in Library of N. Y. Hist. Society.

paper devoted to the interests of the popular party, bitterly scored the election jobbery so common in its day. Though conceding that the practice of intoxicating people to influence their votes might claim justification upon the authority of custom, one contributor to the *Independent Reflector* terms this evil "a perilous Invasion of our constitutional Privileges." He goes on to exclaim: "How often have the Votes of the People been purchased . . . without the least Endeavor to conceal the Bribery? And how seldom are the Qualifications of the Candidates considered by the Electors." [1]

Aside from these confessedly corrupt acts, several other features of colonial elections may be criticized. Every voter was under the necessity of declaring his choice in public, and thus was almost sure of incurring the displeasure of the candidate whom he opposed, and of the candidate's friends. Besides, under the common practice of selling votes, it was, of course, a simple matter to watch whether the voter kept his part of the bargain. The opportunity of fraud was further increased by giving the alderman full charge of elections in his ward.[2] He fixed the time and place of the polls, registered the voters, recorded their choice for office, and submitted the returns to the common council.

The *viva-voce* method and the aldermanic management of elections conduced toward permanence of tenure for members of the common council. This is clearly shown by an examination of the terms of office among the aldermen, especially conspicuous being the case of Gerardus Stuyvesant, who was elected alderman of the Out Ward for thirty-two consecutive years.[3] The tenure of a common

[1] *Independent Reflector*, July 5, 1753.

[2] *Col. Laws*, vol. v, p. 232. [3] *M. C. C.*, vol. iii, p. 294 *et seq.*

councilman averaged four years, that of an alderman from six to seven. Members of the common council were usually re-elected without opposition, an opponent being raised against a magistrate only when his acts had proven objectionable to some of his constituents.

But, as time passed, the power of the lower class increased, encroaching upon the upper-class domination in religion and in politics.[1] In New York, preëminently, the corrupt methods of political management were bitterly attacked. The injustice of the open ballot was especially felt by many right-minded persons, and a number of them expressed their views in a petition addressed to their fellow-citizens. In support of the passage of a bill calling for secret balloting, the following reasons were advanced:

1st. Such a Law, will in a great Measure prevent Tumults, Riots and Disorders, at Elections.

2d. It will prevent Men of Property, Power & Tyranical Dispositions, from prostituting their Wealth and Influence, in giving Weight to their threats, and thereby intimidating the Electors from a free Disposal of their Votes, according to their Understandings and Consciences . . . And effectually Screen all honest Burgers and Tradesmen, who may incline to Vote contrary to the Sentiments, of their Employers or Landlords, from their Resentment: and therefore Place them on a footing with the Richest of their Fellow-Citizens in Elections.

3d. It will in a great Measure, prevent that Dangerous and Detestable Practice of Bribery and Corruption, which has been so successfully practiced.[2]

The bill, however, was lost in the legislature.

Though the provincial legislature refused to substitute

[1] *Ecclesiastical Records: State of New York* (Albany, 1901-1905), vol. vi, p. 4179.

[2] Broadside, dated 1770, in Library of N. Y. Hist. Society.

the secret ballot for open voting, the popular agitation was not without result, for other election reforms were instituted. In 1771 the general assembly amended the sections of the city charter dealing with municipal elections.[1] The aldermen were deprived of the right to manage the ward elections. Instead, the common council was to hold a meeting at least eight days before elections, designate a suitable place for the polls in each ward, and appoint a freeman or freeholder who was a resident of the ward, as returning officer for his particular district.[2] In this capacity he exercised powers held previously by the alderman, such as conducting the elections, and reporting the returns to the common council. Qualifications for voting in New York were for the first time clearly defined; the nature of a freehold, as well as the position of a freeman, was described with preciseness. Provision was also made to eliminate "repeating" as well as false registration at the polls. Every voter had to take oath or make affirmation that he "had not been before Polled," and any one making a false oath or inducing another to commit such an offence was liable to indictment and trial on the charge of perjury.

Municipal elections of this period were influenced to a large extent by the economic and religious interests of the day. On the basis of occupation, the male inhabitants of the city were grouped into six general divisions, as follows: merchants, crown officers, land owners, lawyers, shopkeepers, and artisans. Our review of "Commerce and Industry" will make it clear that the merchant class was by far the most powerful. The rapidly growing trade of the port of New York brought wealth to many inhabitants. Son usually followed father in an established mercantile busi-

[1] *Col. Laws*, vol. v, pp. 228-236. [2] *M. C. C.*, vol. vii, pp. 313-314.

ness, so that family fortunes tended to increase. These rich merchant households were often united by intermarriage, and thus, through common economic and family ties, were formed combinations potent in politics as well as in business.[1]

There were but three other classes in New York society which could be compared in dignity with the merchants, namely, the crown officers, the large landowners, and the lawyers. Indeed, so binding was caste that marriage into another group was denied social sanction. Despite the social influence of the crown officers and the landowners, however, they exerted slight influence on municipal politics. The former were more interested in the game of provincial affairs, where stakes were richer, and few cared even to become freemen of the city. Now and then, we do find these individuals taking part in local politics, but such instances are rare. Large landowners formed but a minor portion of the city's population. These two classes may have exerted an influence over the designation of mayor and of recorder, since these were appointees of the governor, but we may regard crown officers and large landowners as negligible factors in municipal elections.

Far different was the power of the lawyers of the city. Although numerically small, they formed the most influential class after the merchants. At first, these two groups, having many interests in common, joined forces in holding both provincial and municipal governments to conservative policies. But after the middle of the eighteenth century, issues arose which severed this alliance. So wide did the breach become that the period from 1750 to the Revolution witnessed a bitter struggle between merchant and lawyer

[1] Becker, *History of Political Parties in the Province of New York, 1760-1776* (Madison, Wisconsin, 1909), pp. 8-11. See also article by the same author in *The American Historical Review*, vol. vii, pp. 59, 261.

for supremacy in the councils of the government, the former generally holding fast to the conservative side, the latter proceeding more and more toward radicalism. Lieutenant Governor Cadwallader Colden paid the legal profession a grudging tribute when he solemnly assured Lord Halifax that the

> dangerous influence it had obtained [throve] in the province of New York more than in any other part of His Majesty's dominions, [adding that] in a Country like this, where few men, except in the profession of the Law, have any kind of literature, where the most opulent families, in our memory, have arisen from the lowest rank of the people, such association must have more influence than can be easily imagined. . . . Their power is greatly strengthened by inlarging the powers of the popular side of the government.[1] [In conclusion, he stated that] all Associations are dangerous to good Government, and more so in distant dominions, and Associations of lawyers the most dangerous of any next to Military.

The above-mentioned groups composed the upper division of society, while the remaining freeholders and freemen formed the great middle class. These freeholders included owners of small farms in the Out Ward, the rural section of Manhattan, together with those citizens who possessed houses or lots in the lower districts of the city. The freemen of this class embraced shopkeepers, bakers, butchers, millers, innkeepers, carpenters, bricklayers, painters, and artisans in general.[2]

The right of suffrage stopped with this group. Next below it came poorer freeholders whose dwellings either were valued at less than £40 each, or were encumbered with mortgages. Along with them may be classed such workers

[1] *Col. Docs.*, vol. vii, p. 705.

[2] *Freemen of N. Y.* (Coll. N. Y. Hist. Society) gives the names and occupations of freemen admitted to the commonalty.

as did not possess the freemanship, including clerks, laborers and journeymen who toiled for merchants or for freemen more nearly independent. This third class went by several names, being officially known as the "inhabitants," or more commonly the "mechanics." As these persons did not possess the right to vote, they may be regarded as inconsequential in colonial elections. However, this group was destined to be the determining factor in the revolutionary movement in the city of New York.[1]

The population was also divided on the basis of religious denominations into several groups having different degrees of political influence. Anglicanism, introduced with the English occupation of New York, by the middle of the eighteenth century was firmly planted in the city.[2] Its power was continually augmented by the fostering care of crown officers. In the words of a contemporary critic, "its adherents have the civil government chiefly in their hands. In short, in regard to all political rights, this Church has all privileges imaginable above other denominations."[3] The strength of the Episcopalians lay not in their numbers, for it is estimated that they formed but one-tenth of the total population.[4] Other factors, however, placed the Church of England in a position of ascendancy. It was strengthened by the power and the wealth of its communicants, among whom were generally the governor and other high colonial officers, together with "a numerous train of rich and affluent merchants, and landholders."[5] The

[1] Dawson, *Westchester-County, New York, during The American Revolution* (N. Y., 1886), p. 4, note 3.

[2] Dix, *History of the Parish of Trinity Church in the City of New York* (N. Y., 1898-1906), vol. i, *op. cit., passim.*

[3] *Eccles. Recs.*, vol. vi, p. 3965. [4] *Ibid.*, vol. v, p. 3612.

[5] Jones, *Hist. of N. Y.*, vol. i, p. 4. Flick, *Loyalism in New York during the American Revolution* (N. Y., 1901), pp. 9-10.

supremacy of Anglicanism was due also to its centralized form of church organization. In fact, New York city was made the base of the movement to spread Anglican influence into other colonies. Here was usually held the annual convention of Episcopal ministers from New York, Connecticut and New Jersey.[1]

Anglicanism, assured in its power, wealth and organization, found among nonconformist denominations of the city one aggressive rival in the Presbyterian Church. The strength of this church also lay to some extent in its organization, and still more in its numbers. With a college in New Jersey to supply trained leaders, and with its synodical form of ecclesiastical government, this church, in the later years of the colonial period, was capable of forceful, concerted action. After the middle of the eighteenth century it outnumbered in membership the communicants of the Church of England.[2] Its followers were drawn mainly from the middle class; but even Judge Thomas Jones, who harbored no kindly feelings toward Presbyterianism, admitted that "there belonged to it some rich, wealthy, sensible men."[3] The expansion of the Presbyterian Church was due to the accession of many Scottish and Scotch-Irish immigrants and of persons of the "Puritan type," coming into New York from New England.[4]

Next, in order of importance, was the Reformed Dutch Church.[5] In the early days of New Amsterdam, it had been all-controlling; but, after the province changed pro-

[1] *Journal*, May 19, 1768.

[2] *Eccles. Recs.*, vol. v, p. 3612; vi, p. 3965. Sedgwick, *A Memoir of the Life of William Livingston* (N. Y., 1833), p. 78.

[3] Jones, *op. cit.*, p. 2.

[4] Briggs, *American Presbyterianism* (N. Y., 1885), pp. 99-108.

[5] Corwin, *Manual of the Reformed Church in America, 1628-1902* (N. Y., 1902), pp. 102-116.

prietorship from Dutch to English hands, the old church declined in influence, and old customs were gradually supplanted by new. The English language, in time, became more and more commonly spoken, until, in 1731, the use of the Dutch tongue in the courts was entirely prohibited,[1] and toward the middle of the century it could be understood only by older inhabitants who still cherished the traditions of New Amsterdam.[2] The Dutch Church failed to keep abreast of these changes, clinging instead to the old tongue and using it exclusively in formal services. It was largely unintelligible to the younger members, who consequently drifted away to Anglican or Presbyterian churches. Commenting upon this, Kalm said that the younger generation "begin however by degrees to change their manners and opinions; chiefly indeed in the town and in its neighborhood; for the most of the young people now speak principally English, and go only to the English church; and would even take it amiss if they were called Dutchmen and not English."[3] The consistory of the Dutch Church was fully sensible of its growing weakness, and the progressive element labored hard to reform the services. At one meeting, a remedy was proposed which, it was hoped, might prove effective in a time of diminishing church attendance. Upon the persuasion of the elders, the consistory issued a request that all ministers limit their sermon to one hour, in order "to increase the audiences and hold the people together, and so enlarge the alms and other revenue of the church."[4] The question of the continued use of the Dutch language in services split the church into two hostile

[1] *Eccles. Recs.*, vol. iv, p. 2563.

[2] *Ibid.*, pp. 2563; vi, pp. 3964-3965.

[3] Kalm, *Travels into North America* (London, 1770), vol. i, p. 269.

[4] *Eccles. Recs.*, vol. iv, pp. 2955-2956.

factions, causing serious internal dissension. Again, as this denomination looked to Holland for direction in church administration, it was bound to lack organization and initiative. Nor had it a college in America for supplying leaders until the establishment of Queen's (now Rutgers) College, in 1770; and, to make matters worse, progressive ministers were frequently censured and not seldom dismissed, with the result that many congregations were left without pastors.[1] With neither classis nor synod, the Reformed Church fell indeed into an enfeebled condition. The decay of this church was not due to lack of members or of wealth, for it possessed both of these elements, which usually make for ecclesiastical strength. Even to the end of the colonial period it was numerically powerful. Those who visited the city, even in late years, noted that the population was essentially Dutch, Kalm stating that the "inhabitants, both of the town and of the province belonging to it, are yet for the greatest part Dutchmen."[2] Furthermore, Judge Jones gave it a high rank because of "its riches, its influence and . . . the number of its wealthy, opulent and reputable citizens."[3] Unfortunately, it lacked young blood.

Fourth in rank was the Lutheran Church. Planted during the early Dutch period, it was continually nurtured by the increasing flow of German immigrants. Their numbers and influence, usually underrated, may be estimated from statistics on naturalization which indicate that among 220 residents of New York City, naturalized between the years 1740 and 1769, there were 109 Lutherans.[4]

The remaining religious denominations exerted little or

[1] *Eccles. Recs.*, vol. v, p. 3649. [2] Kalm, *op. cit.*, p. 269.

[3] Jones, *op. cit.*, p. 2.

[4] New York naturalization statistics, giving names, *etc.*, of persons naturalized, 1740-1769; manuscript in N. Y. Pub. Library.

no influence over political conditions. There were a few Roman Catholics, Quakers and Moravians. A Calvinist Reformed Church was supported by Germans, and a church for Huguenots, or French Protestants, existed; but both of these showed a tendency to unite with the English bodies, the Germans with the Presbyterians, the French with the Anglicans.[1] Methodists and Baptists each had only one small meeting house.[2] Jews, although numerous, lost political privilege after 1737.

Owing to the strength of social and political privilege, certain economic groups and religious denominations possessed influence over the municipal government far out of proportion to their numbers. This was especially true of the merchant class and of the Anglican Church. These conditions become somewhat more apparent from the following data concerning such leading members of the corporation as mayor, recorder and town clerk, who held office between 1731 and 1776.

We thus see that in the period under review the governor generally selected for mayor of the city some prominent merchant, the only departure from this policy occurring in later years when Whitehead Hicks and David Matthews, both lawyers, were chosen for the mayoralty. Recorders, also appointed by the governor, were, by necessity, of the legal profession, for, as we have seen above, the office required men with such training. But at the same time care was usually taken to select a lawyer of the Anglican creed. The clerks of the common council likewise were Episcopalians. Regarding the common council, our data is somewhat incomplete, but it is certain that the merchants did not hold exclusive control. Yet, as a class, they possessed lead-

[1] *Eccles. Recs.*, vol. v, p. 3649.

[2] Roosevelt, *New York* (N. Y., 1891), p. 90.

NAMES AND OCCUPATIONS OF MAYORS, RECORDERS AND TOWN CLERKS OF THE CITY OF NEW YORK, BETWEEN 1731 AND 1776

OFFICE	NAME	OCCUPATION[2]
Mayor[1]	Robert Lurting*	Merchant
"	Paul Richard	"
"	John Cruger, 1st	"
"	Stephen Bayard*	"
"	Edward Holland*	Unknown
"	John Cruger, 2d	Merchant
"	Whitehead Hicks	Lawyer
"	David Matthews	"
Recorder	Francis Harison	"
"	Daniel Horsmanden*	"
"	Simon Johnson	"
"	Thomas Jones	"
"	Robert R. Livingston*	"
"	John Watts, Jr.	"
Town Clerk	William Sharpas*	"
"	John Chambers*	"
"	Augustus Van Cortlandt*	"

ing rank; the lawyers following. However, the small shopkeepers and artisans, on occasions when they combined, were usually strong enough to act as a check upon the upper class.[3] At no time, even in the later period, were the Anglicans able to boast of a majority of members of their persuasion in the common council. Here lay the strength of the Dutch Church, which could point with pardonable pride to the large number of its elders and deacons on the city

[1] *M. C. C.*, vol. viii, p. 150.

[2] *Freemen of New York, op. cit., passim.*

[3] In the election of 1734 seven merchants, who were members of the common council, were defeated for reëlection by the votes of the artisan class. *Journal*, Oct. 7, 1734. See also broadsides, dated Sept. 1734, in N. Y. Public Library.

* Member of the vestry of Trinity Parish. Dix, *Hist. of Trinity Parish*, vol. iv, pp. 572-583.

board.[1] Though its power was gradually declining, this denomination retained its hold on the common council until past the middle of the eighteenth century, when the rapidly developing strength of the Presbyterians asserted itself in local political circles.

[1] *Eccles. Recs.*, vol. iv, pp. 2747-2750.

CHAPTER III

Trade and Industry

Of late years there has been a tendency to increase the governmental regulation of industrial activities. Recent trust decisions, factory laws, local health ordinances, and the like, testify to this development. It is a reaction from the *laissez-faire* policy which forbade governments to interfere in business enterprises. But the early eighteenth century was not influenced by any doctrine of *laissez faire* being still dominated by the mercantilism of previous centuries. Inasmuch as this theory called for a strict supervision of commerce and industry, we may expect to find the municipal and provincial governments of New York interested in such matters.

Before examining common council regulations regarding the business activities of citizens, it is well to describe, in the first place, the various kinds of circulating media of exchange which were then in use. The strong box of a New York merchant before the Revolution held wampum, coin and paper. Wampum, the money of the Indians, was accepted as currency until late in the colonial period, when it was superseded by metallic money.[1] Gold, silver and copper specie of the greatest variety circulated throughout the colonies. Gold pieces such as British guineas, Spanish pistoles, Portuguese moidores, together with silver and copper coins, found their way into New York through its extensive foreign trade.[2] The evils of paper money were not as wide-

[1] Burnaby, *Travels through the middle settlements of North America in the years 1759 and 1760* (London, 1798), pp. 80-81.

[2] Stevens, *Colonial Records of the New York Chamber of Commerce 1768-1784* (N. Y., 1867), pp. 316-317.

spread in New York as in New England, though provincial bills of credit circulated freely. The annual issue at times exceeded £100,000, but the amount canceled was correspondingly large, this redemption being made possible by levies on the commerce coming into the port of New York.

Counterfeiting added to the confusion in money changing. The prevalence of this evil is proven by court records and by newspapers of the day. In the municipal court of general sessions batches of bad money were frequently condemned and ordered burnt. The *Post-Boy* warns its readers against counterfeit forty-shilling bills "artfully done," pointing out that "Persons of small Attention cannot readily apprehend the Fraud." [1]

With a river navigable for the largest ships on each side, and protected by a splendid bay, Manhattan Island has become the commercial capital of the western hemisphere. The advantages of New York harbor were early recognized by merchants and travelers. Peter Kalm, who visited the city in 1748, commented upon the favorable position of a town situated so near to the ocean and also at the mouth of a river which penetrated deeply into the interior.[2]

The extent of New York's commerce at various times during the colonial period may be seen from the following table:

COMMERCE OF NEW YORK BETWEEN 1746 AND 1772 [3]

	1746	1749	1762	1772
Number of ships cleared	99	157	477	700
Tonnage of ships	4513	6406	19514	29132
Number of seamen carried	755	1228	3552	3374
Total value of exports	14000	35600	53900	82707
Total value of imports	54900	267000	480000	343970

[1] *Post-Boy*, Jan. 28, 1754.

[2] Kalm, *Travels into North America*, vol. i, p. 247.

[3] *Doc. Hist.*, vol. i, pp. 493, 513. Chadbourne and Moore, *Public Service of the State of New York* (Boston, 1882), vol. i, p. 411.

On the basis of tonnage leaving the colonies, New York, in 1733, ranked third, with Boston first and Philadelphia next. Within ten years New York passed Philadelphia, although during the colonial period it never distanced Boston.

This commerce varied in nature. From all quarters of the globe came vessels laden with West Indian molasses, sugar and tropical fruits, Jamaica rum, Madeira wine and silks from India.[1] The African slave trade in the later colonial period was comparatively slight, for between the years 1746 and 1749 only forty-nine slaves were entered at the port.[2] In exchange for all these imports, New York exported mainly foodstuffs such as grain, flour, meat and fish, 6,731 tons of provisions leaving the port of New York in 1749.[3] To the mother country skins and naval stores were sent in abundance.

Both municipal and provincial governments regulated exports. Meat packing, an important industry of the city, was carefully supervised by the common council. All cattle were transported across the rivers and landed only at specially designated wharves near the public slaughter houses, which were purposely located close to the shore. The slaughter houses were leased to keepers, paid by the butchers at the rate of one shilling for every animal killed and dressed.[4]

The condition of the public slaughter houses was not always satisfactory. Insufficient tackle, rings, and staples made dangerous the work of the butchers, several of whom narrowly escaped being gored.[5] Furthermore, the roofs

[1] *Doc. Hist.*, vol. i, p. 493.

[2] Winsor, *Narrative and Critical History of America* (Boston and N. Y., 1887), vol. v, p. 228.

[3] Burke, *An Account of the European Settlements in America* (London, 1757), vol. ii, p. 185.

[4] *M. C. C.*, vol. iv, p. 129.

[5] Complaint of butchers against public slaughter houses, in filed papers, city clerk's office.

sometimes leaked, doors were often missing, and the flooring badly broken, so that meat unspoiled by rains was not seldom stolen by dogs and thieves.

In 1750 Nicholas Bayard, a member of the common council, asked permission to erect a public slaughter house and pen on his land in the Out Ward to the north of Fresh Water Pond.[1] This was granted, and Bayard received a lease for twenty-one years on the same terms allowed to John Kelly, former lessee of the public slaughter houses. In time Bayard obtained a complete monopoly of this business, for all cattle had to be killed at his place, the older public slaughter houses being abandoned. Besides, no slaughtering was permitted in any other part of the city on penalty of a ten-shilling fine. But, as violations of this ordinance continued in the Out Ward, the common council imposed a fine of twenty shillings upon any one who permitted the use of his barn, stable or other property to other persons for killing cattle.[2] On the expiration of his lease, Bayard sought and obtained a renewal for eighteen years.[3] But as he neglected to clean the building and supply the necessary equipment, his exclusive privilege aroused vigorous opposition, and several petitions were presented to the common council from persons desiring to slaughter animals on their own property in the Out Ward. Twice the board deferred action, but was eventually compelled to yield.[4] However, indiscriminate slaughtering of cattle was prohibited save in the Out Ward.

The inspecting, casking and marking of all dressed meat for the export trade was likewise regulated by the common

[1] *M. C. C.*, vol. v, pp. 303, 357.

[2] *Ibid.*, vol. vii, pp. 25-26, 76, 117-118.

[3] *Ibid.*, pp. 94, 107-108, 161.

[4] *Ibid.*, pp. 246, 252, 287-288.

council. The shipping of unwholesome beef or pork was punishable by a fine of £5.[1] After the meat had been examined and passed upon, it was packed in wooden casks having a capacity of thirty gallons. As competition for the West Indian markets became keener, the common council, probably with a view to holding this trade, compelled the use of a cask of thirty-one and one-half gallons.[2] This provision was incorporated in a provincial statute which further specified that each barrel was to be trodden down at least twice and to contain not less than one-half bushel of salt.[3] This system of measurement proved very loose, for casks often fell short of the legal quantity, much to the "Discredit of the said Staple Commodities of this Colony at foreign markets."[4] The common council therefore determined to standardize not according to size, but according to weight, and ordered that a full barrel contain either 220 pounds of beef or 210 pounds of pork. When all specifications were fulfilled, the casks were branded "New-York" by one of the municipal inspectors, or "gaugers," who collected fees for this service from the exporters.[5]

Although the shipment of meat was large, the greatest staple of the city was flour, of which 80,000 barrels were exported annually.[6] For many years the millers of the city had enjoyed a monopoly of bolting and packing flour for exportation, and considerable capital was invested in this business, the regulation of which was retained by the provincial authorities.[7] Their supervision proved inefficient

[1] *M. C. C.*, vol. iv, p. 95.
[2] *Ibid.*, p. 306.
[3] *Col. Laws*, vol. iii, pp. 77-79, 346.
[4] *M. C. C.*, vol. vi, p. 239-241.
[5] *Ibid.*, p. 161.
[6] Smith, *Hist. of N. Y.*, vol. i, p. 331.
[7] Spencer in *Pol. Sci. Quart.*, vol. xxx, p. 400.

and called forth much criticism both from consumers abroad and from merchants at home. So poor was the flour exported by New York dealers, that they were openly stigmatized "cheats" by the inhabitants of the West Indies. This state of affairs impelled a number of leading New York citizens, including William Smith, Paul Richard, Robert Livingston, Philip French and Mordecai Gomez, to urge upon the common council, the necessity of passing an ordinance against "selling and Buying for Exportation Flour not Merchantable whereby the Credit of the Trade of this City in one of its most Considerable Branches is Very much Lessened, and . . . will in a short time be wholly Ruin'd unless some Speedy Method be fallen upon to prevent such Frauds and Abuses for the future." [1] This address was referred to a committee, but no action was taken. In 1735 another petition was submitted to the board, and a committee was instructed to draft an ordinance whereby "the Reputation of the City in its Trade and Commerce may be better Established." [2] However, mindful of provincial prerogative, the corporation carefully refrained from any specific action as to flour.

In the absence of municipal ordinances regarding the exportation of flour, repeated efforts were made by the merchants of the city to secure adequate provincial regulation. Accordingly, Governor Cosby, in 1734 and 1736, and Lieutenant Governor Clarke, in 1741, laid the matter before the assembly.[3] At the same time the representatives from the city prepared bills, none of which succeeded in passing the lower house. In 1750 increased pressure was brought to bear upon the assembly. It received from a grand jury, sitting in New York city, a remonstrance pointing out the

[1] *M. C. C.*, vol. iv, pp. 169-170.
[2] *Ibid.*, pp. 251-252.
[3] *Assemb. Jour.*, vol. i, pp. 563, *et. seq.*

need of regulation over staple commodities.[1] This statement was also substantiated in a long petition, signed by the leading merchants of the city. In the end the legislature enacted a law which compelled all bakers and bolters of the city to register their names and brand marks with the clerk of the municipal court.[2] Notwithstanding these rules, we are told, "Great abuses" had been "committed in the Manufacturing of Flour" and this great "Staple of the Colony" had "in a very considerable Degree lost its reputation" in all places to which it had "usually been exported."[3] To remedy these evils, the legislature finally enacted several regulations regarding the quality of flour. In 1771 it dealt the shipping interests of the city a severe blow by appointing inspectors of flour and repackers of beef and pork in Albany, Orange, Ulster, and Dutchess Counties.[4] This was done to overcome the inconvenience of unloading cargoes at New York, a practice of many years' standing. The effect of this law was to break the monopoly enjoyed by the city.

The city's regulation of the quality of flour and bread for the export trade was limited by the province; but the former's control over foodstuffs for local consumption was complete. The exacting assizes fixing the quality, size and price of bread, passed in the earlier period, were continued with unabated strictness.[5] The price and size of loaves varied with the cost of flour, for, when wheat sold at four shillings a bushel, bakers were permitted to charge one penny for a loaf of the best white bread weighing ten and one-half ounces, whereas with wheat down to three shillings six pence, bread was to weigh eleven and one-half ounces.[6]

[1] *Assemb. Jour.*, vol. ii, pp. 294-295.

[2] *Col. Laws*, vol. iii, pp. 788-793. Minutes of Court of Quarter Sessions, March 21, 1751.

[3] *Col. Laws*, vol. iv, pp. 1096-1098.

[4] *Ibid.*, vol. v, pp. 198-202.

[5] *Vide supra.*

[6] *M. C. C., op. cit. passim.*

Rye bread was seldom included in the regular assizes, but occasionally a separate statement of prices for this commodity was issued by the common council. It was supposed to draw up an assize every three months, but this practice was not followed; for frequently rates were changed twice within one month, and, again, a half year would intervene between two assizes. Every loaf offered for sale was to be marked with the baker's initials. Inspectors of bread were appointed by the common council to see that the regulations of the municipal assizes were faithfully observed. A baker violating the bread assize was fined usually twenty shillings, and the goods offered for sale contrary to the ordinance, were forfeited to the poor of the city. Bakers were not always satisfied with these rulings of the magistrates, especially regarding the prices set by an assize, and at times combined to oppose the ordinances. We read in the *Journal* that on one occasion "there was a general Combination of the Bakers not to Bake, because Wheat is at a high price, which occasioned some Disturbance, and reduced some, notwithstanding their Riches, to a sudden want of Bread."[1] The corporation possessed through court procedure means which compelled observance of its ordinances. Such a step was taken against John Bogert, who was indicted by the grand jury for selling unwholesome bread.[2] Again, when infractions against the by-laws were very serious, the matter was taken before the supreme court.

Liquors, both imported and domestic, were consumed in enormous quantities, and were deemed by many necessary accompaniments to work of every nature. Apparently no public enterprise could properly be undertaken without

[1] *Journal*, April 20, 1741.

[2] Minutes of the Court of Quarter Sessions, May 3, 1744.

stimulants of some kind. Anthony Ham, doorkeeper of the common council, was allowed to retail liquors gratis,[1] and when the board made an appropriation for building a ferry house, repairing a dock, or erecting a public building, it seldom failed to make an allowance for beer and rum for the workers.[2] Again, Henry Law, a tapster, was given £5 for "divers Quantitys of liquor Delivered out at the late fire to those who appeared to stand Greatly in need of the Same, being very Cold and Wett."[3] A more peculiar incident is an order of the common council, in 1773, that the sum of £2 : 9½s be given to John Simmons "for Liquor found for the Jury who sat to enquire of the Death of Mary Murphy."[4]

From the liquor traffic both the province and the city derived considerable revenue, the former levying an excise tax, the latter requiring a license fee from every dealer. The provincial excise tax was "farmed out" every year to the highest bidder, who was to act as excise master. He in turn sold the privilege of retailing strong liquors to anyone who agreed to his terms. This system proved unsatisfactory, for it encouraged the increase of low groggeries.[5] The law was also disadvantageous to retailers, for they were forced to pay an exorbitant sum to the "farmers" of the excise.[6] For these reasons this policy was discontinued after 1753, when the province appointed commissioners to collect the excise tax, and for the city of New York it chose the mayor, recorder and aldermen as excise commissioners. In the following year the above mentioned plan, so far as it related to the city, was changed; for the general assembly appointed two citizens as commissioners.[7] This system of

[1] *M. C. C.*, vol. iv, p. 207.
[2] *Ibid.*, p. 250.
[3] *Ibid.*, vol. vii, p. 211.
[4] *Ibid.*, p. 440.
[5] *Post-Boy*, Jan. 29, 1753.
[6] *Col. Laws*, vol. iii, p. 951.
[7] *Ibid.*, p. 1000.

collecting the excise in the city, through officers appointed by the state, was continued after the Revolution, and in fact remained in force until 1824.[1]

The city also possessed partial control over excise matters. All retailers of liquors were obliged to secure licenses from the mayor, on penalty of a fine of £5.[2] The extent of the liquor traffic may be estimated from the statement that, in the year 1772, the mayor issued 396 licenses to liquor dealers, thus averaging one to about every 55 inhabitants of the city.[3] Other limitations were placed by the common council on the sale of intoxicants. The present Sunday-closing law is not an innovation to New York City, for, as early as 1731, the board ordered that no tavern keepers "suffer their Doors to be kept Open, or do Entertain or Receive any Company into their Houses, and to them Sell any kind of Wine, Beer, Syder, Rum, or Other Strong Liquors on the Lords Day, Called Sunday, in time of divine service."[4] Another ordinance, passed in 1755, threatened severe punishment to any dealer who sold liquors to sentinels of the garrison, in consequence "whereof many have Lately Deserted the Service and many Breaches of the peace Tumults and Outrages have been Committed."[5]

Besides bread and liquors, foodstuffs of all sorts were sold at the public markets. Here could be bought meats, fish, eggs, butter, cheese, vegetables and fruits, supplied by the country people from Harlem, Westchester, Long Island, and New Jersey. Before dawn wagons, loaded with provisions, rumbled down Bloomingdale Road into Broadway,

[1] Fairlie, *Centralization of Administration in New York State* (N. Y., 1898), pp. 156-157, note 3.

[2] *M. C. C.*, vol. iv, p. 81.

[3] *Ibid.*, vol. vii, p. 420. The accounts of the mayor were entered in the tavern keepers' book, still preserved in the comptroller's office.

[4] *M. C. C.*, vol. iv, p. 79.

[5] *Ibid.*, vol. vi, pp. 44-45.

where several of the markets stood. Also in the early morning hours a steady stream of farmers' carts made their way to the Brooklyn Ferry, where the produce was transported across the East River to Manhattan. A fleet of small boats, filled with foodstuffs, came down the Hudson daily from Hackensack and Tappan on the Jersey shore, usually returning with the flood tide.[1]

In 1730 there were five markets within the city limits.[2] One of these, the "Broad Street" market, was probably used very little, for it is not mentioned as one of the public markets in the laws of 1737, and it is believed to have been torn down about 1746.[3] The "Old Slip" market, near "Burger's Path," gradually declined in importance, and by 1737 only five stands in it were leased. For a number of years the market was more or less neglected, and fell steadily into decay. In 1754 the common council had a solid stone foundation made for it, as well as a reënforced flooring and a new shingled roof.[4] Later other repairs were ordered, but the market continued so objectionable to many residents that, in 1774, a petition urging its removal was addressed to the common council.[5] No action, however, was taken, and the market remained standing until 1779.[6] Another old market house was located near "Countess Key" at the foot of Maiden Lane.[7] It was enlarged in 1736 by voluntary contribution, and in 1771 it was further improved at public expense to accommodate a growing trade in fish.[8] In time it became known as the "Fly" market and

[1] Kalm, *op. cit.*, p. 258.

[2] Stokes, *Iconography of Manhattan Island, 1498-1909* (N. Y., 1915), vol. i, plate 2.

[3] *M. C. C.*, vol. iv, pp. 365-366. De Voe, *Market Book* (N. Y., 1862), p. 85.

[4] *Post-Boy*, June 17, 1754.

[5] *M. C. C.*, vol. viii, p. 18.

[6] Stevens, *Colonial Records*, p. 339.

[7] *M. C. C.*, vol. iv, p. 354.

[8] *Ibid.*, vol. vii, p. 366.

continued as such until 1822, having had a continuous existence of 131 years.[1] Fish was also sold in large quantities at the "Coenties" market in the Dock Ward. This market was repaired and enlarged so that considerable business was still being conducted there when the Revolution broke out.[2] Near Clark's Slip, at the foot of Wall Street, stood the "Meal" market, which was one of the two public markets where grain was sold. Here also, masters sent their slaves to be hired out to other inhabitants of the city.[3] The market became more important when, in 1738, the ferry lessee decided to use Clark's Slip as a landing for his boats.[4] To accommodate the additional business, the market house was enlarged through contributions by neighboring property holders. Additional improvements were made, by John Marschalk, who was given permission to provide bins in the market for storing grain that had been sold.[5] This was quite a convenient change, for previously all unsold meal had commonly been stored over night in nearby houses.

In addition to these five old structures, several new ones were built within the period under review. In 1738 the common council permitted the inhabitants of the Dock and South Wards to erect a market house in the middle of Broad Street, near the present Exchange Place.[6] In 1746 leave was given for another in Rodman's Slip, also called Burling's Slip, but it proved unpopular and little further mention is made of it in the *Minutes of the Common Council*.[7] About the same time, the building of "Whitehall Slip"

[1] *M. C. C.*, vol. iv, pp. 365-366. De Voe, *Market Book*, p. 85.

[2] *Ibid.*, p. 116. *M. C. C.*, vol. vii, pp. 103, 124, 211. [3] *Ibid.*, vol. iv, p. 85.

[4] *Ibid.*, pp. 413-414. [5] *Ibid.*, vol. v, p. 155.

[6] *Ibid.*, vol. iv, pp. 426-427. De Voe doubts the existence of a market on this site, p. 253. But the *Minutes of the Court of Quarter Sessions* contain an order, under date of May 5, 1746, to remove a market house on Broad Street, near the watch house.

[7] *M. C. C.*, vol. v, p. 168. De Voe, *op. cit.*, p. 278.

market at the east end of Pearl Street near the Battery was allowed; but four years later the common council ordered it removed.[1] More nearly permanent was the "Peck Slip" market, the first to be built of brick.[2] It was erected in 1763 by William Walton and Jacobus Roosevelt, and remained standing until 1793.

We now have occasion to revert to an older market, mentioned above. This was the Meal or Wall Street market, which by 1762 was in a very unsatisfactory condition despite the efforts of the city fathers. As far back as 1744 the corporation had been indicted by a grand jury, one count being "the Dirt and Nastiness under the Meal Markett and the Ground fronting the Same."[3] Several years later a considerable amount of earth was carted away, but the market was still reported as a nuisance, this time the drain under it being clogged. The Common Council, heeding the complaint, ordered the drain to be cleaned, and later went to the expense of erecting a new drain to carry off the filth from the market to the East River.[4] However, the inhabitants living in the vicinity of the Meal market protested to the common council that it "greatly Obstructs the agreeable prospect of the East River which those that live in Wall Street would Otherwise enjoy, that it Occasions a Dirty Street Offensive to the Inhabitants on each side and Disagreeable to those that pass and Repass to and from the Coffee house a place of Great Resort."[5] In accordance with the wishes of these persons, the common council ordered the removal of the house to the "Oswego" market.

[1] *M. C. C.*, vol. v, pp. 167, 293.
[2] *Ibid.*, vol. vi, p. 321. Stevens, *op. cit.*, p. 339.
[3] *M. C. C.*, vol. v, pp. 113-114.
[4] *Ibid.*, pp. 370, 374.
[5] *Ibid.*, vol. vi, pp. 283, 287.

This was originally known as the "Broad Way" market, for it was situated in the middle of that thoroughfare near the present Liberty Street.[1] It was erected in 1738 by the inhabitants of the West Ward at their own expense, and in time the name "Oswego" market was applied to it.[2] It was improved and enlarged by both the corporation and private persons, so that it came to be 156 feet in length.[3] At first it was solely a meal market, but after 1741 meat also was there offered for sale, supplies for this food center coming from the Out Ward and down the North River from Tappan.[4]

The market proved useful for over thirty years, but in 1770 its continuance was strongly opposed by many influential persons. Its location in the middle of the city's busiest thoroughfare became more and more unsuitable, as the population and traffic increased. In January 1771, the market was denounced in the supreme court on the ground that it so obstructed Broadway that passage was dangerous.[5] After receiving a copy of the indictment, the common council was at first inclined to defend the market, and endeavored to retain James Duane, as counsel. When he declined, Samuel Jones was engaged.[6] After several months of deliberation, Jones gave the discouraging opinion that the corporation's case was too weak to be defended with any hope of success, and he urged the board to remove the market.[7] Although following his advice to the extent of not

[1] De Voe, p. 263.
[2] *M. C. C.*, vol. iv, pp. 423-424; vol. v, p. 216.
[3] *Ibid.*, vol. vii, p. 259.
[4] *Ibid.*, vol. v, pp. 41-42.
[5] Minutes of Supreme Court, Jan. 17, 1771.
[6] *M. C. C.*, vol. vii, pp. 259-260, 262.
[7] *Ibid.*, p. 300.

defending its case, the common council refused to order the removal of the market and left such action to the supreme court.

Not long after the market was taken down, residents in the neighborhood inaugurated a movement to erect a new one, "on the East Side of the Broad way Street."[1] The common council gave its sanction and funds were raised, partly through a private lottery. The new building received the name of "Oswego" market.[2]

For a number of years before the dismantling of the old Oswego market, residents of various districts throughout the city had been petitioning the common council for the right to erect market houses in their respective localities, but no action resulted. In 1742 one John Thurman had sought leave to build a market house at a slip which he owned, and Peter Mesier one at Cortlandt Slip, but they were both thwarted, probably through the efforts of those interested in the old Oswego market.[3] About twenty years later, persons in the vicinity of Cortlandt Street renewed the petition for a market house, and at the same time residents on lower Dey Street made a similar request for their neighborhood.[4] But again the Oswego market interests triumphed, for both petitions were indefinitely deferred. In the year 1771 these matters were repeatedly brought before the board, but in the fall, by a vote of seven to eight, it refused its consent to the erection of a market on Thurman's Slip.[5]

However, the demolition of Oswego market made the building of a new market house imperative. Three sites were first suggested by citizens, one in the Fields, a second on

[1] *M. C. C.*, vol. vii, pp. 348-349, 350.
[2] De Voe, *op. cit.*, p. 330.
[3] *M. C. C.*, vol. v, p. 56.
[4] *Ibid.*, vol. vi, p. 325.
[5] *Ibid.*, vol. vii, pp. 261, 312.

Dies Slip, and a third at Mesier's Dock on the North River.[1] The common council rejected the first location proposed, although this site was requested in petitions signed by hundreds of inhabitants, to which signatures were added those of no fewer than 125 city cartmen,—a circumstance unique in the annals of the colonial municipality. One may only speculate as to the identity of the organizer of this remarkable demonstration. Dies Slip was also eliminated, leaving only Mesier's Dock for consideration. Its general location was favored, but at the meeting certain lots owned by the corporation to the north of Dies Dock (the later Washington market, on Fulton and Vesey Streets) were determined upon.

Work on the new market house was soon begun. A structure 166 feet long by 28 feet in breadth was planned by the common council, which appointed a committee to superintend its speedy completion, if possible, before the end of the year.[2] This undertaking was actively supported by private contributions. As the amounts subscribed were considerable, the common council designated John Stagg as official collector, and the amount of £500 was raised.[3] By November 1771, the building was completed, under the name of the "Bear" market.[4] Scarcely had the new market opened when its business was threatened with competition. The movement for additional markets was strongly supported by the public, and accordingly petitions for such buildings at Thurman's Slip, in the Fields and in Maiden Lane were continually submitted to the board. A counter petition was also received, signed by those who had aided in the building of the Bear

[1] *M. C. C.*, vol. vii, pp. 302-304. Several petitions relating to this subject are in the filed papers, city clerk's office. De Voe, *op. cit.*, p. 275.

[2] *M. C. C.*, vol. vii, p. 306.

[3] *Ibid.*, p. 308. De Voe, *op. cit.*, p. 308.

[4] *Ibid.*, pp. 311-312. *M. C. C.*, vol. vii, p. 326.

market, which document explained that the present market offered sufficient accommodation and that the erection of another house, less than 200 yards away, would prove very injurious to the petitioners, especially after their large personal expenditures. With this latter representation before it, the common council, by a majority of one, rejected the proposition of John Thurman.[1] Through the efforts of Common Councilman Abraham Mesier, the board later reversed its own decision, and in the following year voted to accept John Thurman's house, which soon became known as the "Crown" market.[2]

The public markets were leased to private individuals, as were municipal ferries and docks. The terms of leasing were arranged by a standing committee of the board. At first each stall was leased separately, and no person was allowed to secure more than two in any one market. But in 1741 a decided change in the method of leasing took place. After that year the common council resolved to lease annually all its market properties to that individual who bid highest at the public auction.[3] The markets were leased the first year to Adolph Brass, who sublet the stalls therein to others.

Several of these lessees, notably Adolph Brass and Alexander Whyte, were very irregular in the payment of rent, and, in the case of the latter, suit was successfully brought for recovery.[4] Markets and docks were closely associated, as meat and produce which was unloaded at the docks always passed directly to the markets nearby. It was therefore quite profitable for the lessees of the docks to secure

[1] *M. C. C.*, vol. vii, pp. 331-332.

[2] *Ibid.*, pp. 350-351. De Voe, *op. cit.*, p. 328.

[3] *M. C. C.*, vol. v, pp. 45-46.

[4] *Ibid.*, vol. vii, pp. 74-75, 139, 180. Minutes of Supreme Court, Jan. 20, 1770.

control of the markets also, and we find them usually seizing this opportunity.[1]

We have already remarked how characteristic paternalism was of all governmental activities in the eighteenth century. The market regulations of the common council well illustrate this. As the purpose of the whole market system was primarily to bring housekeepers and farmers in direct contact with one another and eliminate, thereby, the middleman, considerable regulation was necessary. In the first place, hucksters or retailers were not permitted to make any purchases at all in the markets until the afternoon, so as to give first choice of products in the morning to the housewives.[2] Another ordinance prohibited the buying of provisions from country people, before they reached the markets. This restriction was often evaded, especially when provisions were dear, for inhabitants met the farmers at the ferryboat landings to purchase food. It was, naturally, of advantage to boatmen to sell at the docks, for, aside from making better bargains, they were spared the extra expense of carting their goods to the market. Also the quality of the meat sold at the markets was guarded by the common council, which in 1731 ordained that "no unholsome or Stale Victualls, No Blown Meat or Leprous Swine" be sold within the city on penalty of a fine of forty shillings.[3] This by-law was frequently invoked against butchers; for example, "nine quarters of carrion Lamb, was by authority, seized, in the Fly Market of this city, and according to Law, burnt, near the Ferry stairs."[4] Short weight was another evil practice against which the common council enacted several ordinances. It ordered that all weights and measures for use in the markets be first examined and then sealed.[5]

[1] *M. C. C., op. cit. passim.*

[2] *Ibid.*, p. 109.

[3] *Ibid.*, vol. iv, pp. 108-109.

[4] *Post-Boy*, May 9, 1757.

[5] *M. C. C.*, vol. iv, p. 110.

Notwithstanding the market system, the prices of foodstuffs rose steadily, as is shown by the quotations found in the newspapers of the day. The high cost of living naturally occasioned many complaints and consequent demands for higher wages and salaries. Lieutenant Governor Colden in a letter dated November 10, 1764, states that an income "which would have enabled a Family to live with some distinction thirty or forty years since, is now not sufficient for the subsistence of a Family of midling Rank." [1]

There were several causes, both transitory and permanent, for the rise of prices. Temporary advances in the cost of food were often caused by inclement weather which prevented small boats from landing in safety. Floating ice at times held back food-laden ships bound for the city.[2] Reports of yellow fever or smallpox in New York also deterred many of the country people from coming to market. Thus, in 1731, according to one account, "the Markets begin to grow very thin; the Small-Pox raging violently in Town, which in a great measure hinders the Country People from supplying this Place with Provisions." [3] In order to meet such a difficulty, the magistrates would exert every effort to contradict or minimize alarming news, on one occasion even going so far as to order the newspapers to print the following statement: "Whereas some Evil disposed Persons for their own private Lucre and gain, have Industriously Spread A Report about the Country that the Small-Pox prevails within this City, whereby to deter the Country People from Coming to Markett . . . These are therefore to Certifie and declare that the Said Report is false and Groundless." [4]

The heavy export of foodstuffs also tended to raise prices

[1] *Colden Letter Book*, vol. i, p. 398.

[2] Smith, *Hist. of N. Y.*, vol. ii, p. 69.

[3] *Boston News-Letter*, Sept. 2, 1731.

[4] *M. C. C.*, vol. iv, pp. 56-57.

to a high level and to keep them there. For this reason, a committee of the common council, in 1748, petitioned Governor Clinton to place an embargo on flour, bread, grain and butter. Part of the address is as follows: "As the Great and Unusual Exportation of the produce of our Country to foreign Markets in the West Indies has Occasioned so great a scarcity of provisions at this time . . . so in consequence therof they are become most Excessive Dear to the Very great Oppression and Loss of all Degrees of people but more Especially to the industrious and Laborious poor amongst us." [1]

There were also complaints about monopolies as the cause of rising prices. Beef which sold for only four pence per pound in the neighboring districts brought in the city as high as seven and eight pence per pound. According to one statement this was due to the efforts of "one of the most impudent combinations that was ever suffered among a free and thinking people." [2] To check the aggression of this colonial food trust, in 1763 a large, influential body of citizens urged the common council to fix by an assize the price of food in the markets.[3] Though the board had regulated the price of bread, it had hitherto carefully refrained from taking any such action regarding meat and other provisions. In the case of bread, the right of the municipality was unquestioned, for the bakers, who alone were concerned, were residents within the city. As to meat and provisions, on the other hand, there was considerable doubt because inhabitants of neighboring counties would thus be affected by a municipal ordinance. However, in 1763, the common council formally stated that it was "fully authorized to Regulate and Assize the prices of all kinds of Provisions

[1] *M. C. C.*, vol. v, pp. 242-244.

[2] De Voe, *op. cit.*, p. 145.

[3] *M. C. C.*, vol. vi, p. 336.

set to Sale in this City for the Consumption of its Inhabitants," and at once passed an ordinance making this right effective.[1] Then immediately followed a controversy in which the *Gazette* roundly denounced the avarice of butchers and country people, while the *Mercury*, another representative weekly, was inclined to defend them.

This ordinance was bitterly opposed by the butchers, the majority of whom refused to sell any meat so long as it was enforced, thus threatening the city's food supply. Two of their number, John Carpenter and Jacob Arden, were bold enough to sell beef at a price above that set by the ordinance, the latter declaring "that he would Sell his Beef for four pence half penny pr pound in Spite of all that the wise heads that made the Law Could do."[2] For this attitude, Arden was deprived of his "freemanship," thus entailing the loss not alone of the political right to vote, but also of the industrial privilege of engaging in trade or business within the limits of the city.

More potent than the opposition of the city butchers was that of the nearby farmers who supplied the markets with meat. They soon brought pressure to bear upon the assembly to pass a bill nullifying the assize established by the municipality.[3] After its passage in the lower house the bill was sent to the legislative council. At a hearing before this body, the bill was opposed by a committee of the Common Council who held that the proposed law impaired the chartered rights of the city and caused its rejection.[4] This occurred about a year before the passage of the Stamp Act. Agitation was in the air, and the country people were unwilling to admit defeat at the hands of the municipal gov-

[1] *M. C. C.*, vol. vi, pp. 337-342. [2] *Ibid.*, pp. 360-361.
[3] *Ibid.*, p. 360. [4] *Jour. Legis. Coun.*, vol. ii, p. 1530.

ernment. They boldly proclaimed that as free Englishmen they had a right to sell their provisions at their own prices.[1] Accordingly they agreed to establish a storehouse at Tarrytown, where the inhabitants of New York might purchase provisions, and at the same time planned to lay a twenty-shilling tax on the owner of any vessel leaving there with supplies for the city markets. This vigorous resistance brought results, and made the Common Council feel that the prices it had fixed were too low; so the board removed from the assize several features which were objectionable to the country people.[2]

We ask this final question concerning the markets: Was their operation in the city of New York a success? Whatever may have been the benefits derived from the markets in the early years, they did not prove satisfactory toward the close of the colonial period. The common council, in the interests of the older markets, continually blocked attempts to establish new ones in the northern part of the city. Thus the increase in their number did not keep pace with the growing population, and, as we saw, not until after 1740 were the much-needed markets erected. Popular dissatisfaction with inadequate accommodations and the poor quality of food offered for sale, together with the high prices, caused considerable discontent in the later period.

From the foregoing review, it is evident that the common council, in shaping its economic legislation, had always to consider the attitude of neighboring counties. We have seen that on one occasion the clamor from these outside districts nearly persuaded the provincial legislature to nullify a municipal ordinance on market prices. Other by-laws of the common council, especially those on hay and

[1] De Voe, *op. cit.*, p. 147. *Gazette*, Sept. 19, 1763.

[2] *M. C. C.*, vol. vi, p. 362.

wood, were intended to protect local inhabitants from the sharp practices of the country people. These regulations caused ill-feeling between the city and the surrounding counties of Queens, Kings, Richmond, and Westchester.

To enforce proper inspection, hay, according to one ordinance, could be unloaded only at designated places.[1] For a long time, hay had been sold by the load or by the half load, but this method was found by experience to be very uncertain, and controversies ensued between rural boatmen and city cartmen. In the interest of its constituency, the common council passed an ordinance providing for a hundred-weight measure, to be determined by "weighing machines," set up in various parts of the city.[2] They were operated by persons whom the common council appointed as inspectors, and the work of weighing proved so profitable that one alderman obtained permission to erect a "Hay Machine" near the Oswego market.[3] The municipal scales proved very expensive in construction; one of them, for example, which cost £79, proved a complete failure.[4] For a number of years no further action was taken by the common council, despite many complaints that hay, improperly cured and generally poor, was offered for sale. Twice a committee of the board was appointed to devise means of settling this difficulty, but not until 1773 was a comprehensive by-law passed.[5] It placed responsibility for the quality of the hay upon the city cartmen, who were ordered, on penalty of a fine of ten shillings for every load, to make sure that it was sufficiently dried. Disputes arising under this ordinance were settled by a novel method of arbitration. An inhabitant who believed he was being defrauded could apply to one of the magistrates for an examination of the hay by

[1] *M. C. C.*, vol. iv, p. 119. [2] *Ibid.*, vol. vi, pp. 298-300.
[3] *Ibid.*, vol. vii, pp. 423, 427. [4] *Ibid.*, vol. vi, p. 322. [5] *Ibid.*, pp. 430-432.

a committee of three, to be appointed by the owner, the purchaser or an inspector, and the magistrate, respectively. The alderman based his judgment on the report of these three men, and placed costs of examination upon the loser. The prospective buyer, as an inhabitant of the city, naturally had, in such cases, the advantage of being usually favored by the alderman, who would not be likely to incur the displeasure of his constituents. The operation of this statute did not tend to promote good feeling between the city and its neighbors.

Regulations on the sale of cordwood in the city caused an open clash with Richmond County, whence this commodity was mainly obtained. A scarcity of wood at times occurred, and in 1759 prices rose to the high level of £3 10s per cord.[1] Besides, many residents claimed that the wood on sale was of short measure, and the common council thereupon passed an ordinance stating in its preamble that "frequent Abuses have been Committed, and are likely to Continue, in the sale of firewood for want of a more Certain method of Admeasurement."[2] It was therefore ordered that no firewood brought to the city in boats should be landed until sold, thus permitting proper measurement as it left the vessel. It was to be distributed in cords eight by four feet and measured by inspectors who were engaged for this work by the common council at a compensation of four coppers per cord. The payment of this fee was divided between buyer and seller. The wood sellers of Richmond naturally were aroused by this ordinance and sought to nullify it. Through their representatives in the assembly, a bill was introduced regulating the sale of firewood brought into New York. Sharp debate followed in which the city was assailed as a "dirty Corporation," while in reply its repre-

[1] De Voe, *op. cit.*, p. 136.

[2] *M. C. C.*, vol. vi, pp. 320-321.

sentatives defended the municipal ordinance on wood as being the only way of compelling grasping Staten Island dealers to give full measure to the city's poor.[1] The bill passed the lower house, over the protests of the city's assemblymen, but through the efforts of the recorder, who pointed out that the charter rights of the corporation were being abridged, the governor's council defeated the measure.[2]

This chapter, dealing with the economic legislation of the city, began with a reference to mercantilism. It has been shown that this policy, the keynote of which was close governmental supervision, pervaded the ordinances of the common council on commerce and local trade. But in no field did the corporation exercise more control than in the granting of the "freedom" of the city. To-day this is merely a complimentary privilege bestowed upon a distinguished visitor by a municipality as a token of honor. In former times, however, this grant really meant a very definite thing; for it made the recipient a "freeman" of the city or, more specifically, a member of the municipal corporation, known in this case as the "Commonalty of the City of New York."[3] As such he possessed certain political and industrial privileges. His political rights empowered him to vote for elective officers. His industrial benefits are seen from the following regulation, that no one was to "Keep shop, or sell or Expose to Sale any Goods or Wares by Retail, or Exercise any Handy Craft Trade or Occupation, but such as are Freemen."[4] One became a freeman by applying to the common council, and, after being admitted, by paying a fee, ranging from £3 for a mer-

[1] Broadside addressed to "The Representatives in General Assembly," printed by John Holt, Feb. 1774, in Library of N. Y. Hist. Society.

[2] *M. C. C.*, vol. vii, p. 136. *Min. Leg. Coun.*, vol. ii, p. 1580.

[3] *Col. Laws*, vol. ii, p. 576.

[4] *M. C. C.*, vol. iv, p. 96. Kent, *Charter of the City of New York*, p. 154.

chant or shopkeeper to twenty shillings for a manual worker. The candidate then took an oath under the injunction, "Obeysant and Obedient Shall ye be to the Mayor and Ministers of this City," and further swore to accept summons, to take turn at the watch, to pay his taxes, and to warn the mayor of any "Gatherings Conventicles or Conspiracies made against the Kings Peace." [1]

At times, the freedom was bestowed gratuitiously upon a prominent visitor or upon some one who had performed an important public service. A new governor on arrival was usually thus complimented by the corporation. Captain Sir Peter Warren, for exploits against the French, received the freedom of the city, as well as the generals, Shirley, Monckton and Gage,[2] Andrew Hamilton, the Philadelphia advocate, who successfully defended John Peter Zenger against the libel charges preferred by Governor Cosby, was similarly complimented.[3] Once three sailors attached to a vessel moored in the harbor, received the freedom of the city for conspicuous gallantry in helping to extinguish a dangerous fire. However, only a small number of complimentary "freedoms" were granted, the great majority being compulsory. Regardless of rank, occupation or sex, independent workers of the city were required to apply for a "freedom." The trading class, such as merchants, shopkeepers, and retail dealers, the artisans including coopers, carpenters and tanners, as well as midwives, doctors and teachers, all were obliged to become freemen or freewomen.[4]

The activities of certain classes of freemen were often subject to strict regulation by the common council. This

[1] *M. C. C.*, vol. iv, p. 121, as of the year 1731.

[2] *Ibid.*, vol. iv, p. 44; vol. v, pp. 229-230; vol. vi, pp. 271, 446.

[3] *Ibid.*, vol. iv, pp. 277-278.

[4] *Burghers of New Amsterdam and the Freemen of New York, op. cit., passim.*

was illustrated above in the ordinances determining prices to be charged by the city bakers and butchers. Equally specific were municipal by-laws regarding trucking business within the city. A considerable number of persons gained their livelihood from this occupation, since many carts were needed in moving merchandise to warehouses, flour and provisions to ships, and foodstuffs to market. In fact, the city faced no inconsiderable traffic problem early in its history; reckless driving not being solely a modern evil in the city, as is evident from the newspapers of the colonial days.

Similar to modern laws was the old regulation ordaining that "Every Carman that driveth A Cart for Hire or Wages within this City Shall have the Number of his Licence fairly painted upon each side of his Cart with Red Paint, easily to be seen on the after part of the shaft." [1] Furthermore it was ruled that no driver should refuse to let his horse and cart to any person who required them, and should charge only those rates prescribed by the common council. In addition, most of the ordinances, detailed in the first volume of this series, were continued in force.

Manufacturing played but an unimportant part in the business activities of the city, as is evident from the small number of freemen engaged in such occupation. However, a few manufacturing plants did exist within the city limits. In 1730 a smelting furnace for the reduction of iron ore, one of the first in the United States, was built near the corner of the present Reade and Center Streets.[2] At about the same time the Bayards erected a large building near the City Hall for the refining of sugar, but later the structure was used as a tobacco factory.[3] Glass was also worked on a small scale. Several mills for the making of nails were

[1] *M. C. C.*, vol. iv, p. 91.
[2] Wilson, *Memorial Hist. of N. Y.*, vol. ii, p. 196.
[3] *Historic New York*, vol. i, p. 95.

erected, but later suppressed by the home government.[1] Owing to this hostile attitude of Great Britain toward colonial manufactures, there were but few metal workers in the city, with the exception of the freemen who were registered as goldsmiths or brass founders; consequently there is scarcely any mention of them in common council ordinances.

The making of wearing apparel was developing slowly during the later colonial period. Hats were made extensively, as is seen from the number of freemen enrolled as feltmakers.[2] The growing interest in the manufacture of clothing is apparent in a report of Governor Sir Henry Moore to the home government.[3]

Leather making was quite an important occupation in the city. In time the location of the tanneries was shifted northward. At first they were situated in the district known as Beekman's Swamp. But in 1744 they were not allowed any longer below Fresh Water Pond, all the old tanpits being ordered filled. This step was taken after a yellow-fever epidemic, which "Infectious Distemper," it was believed, had been caused by the presence of the "Pitts of Tanners Skinners Leather Dressers Curriers and Glovers within or too near the Populous and Most Inhabited part of this City."[4] Here we have an early instance of the exercise of the city's police power in the interest of public health, for the entire tanning industry was thus moved to the north of Fresh Water Pond in the Out Ward. Though this change was forced upon the tanners, it was not without its mitigating circumstances. The new location was quite favorable, for tanners were given full privilege to dig pits and to draw water from the pond.[5]

[1] *Col. Docs.*, vol. vi, pp. 604-605.

[2] *Freemen of New-York, op. cit., passim.*

[3] *Doc. Hist.*, vol. i, p. 498.

[4] *M. C. C.*, vol. v, p. 119.

[5] *Ibid.*, p. 161.

Several brickyards were conducted to meet the needs of a growing community. As this work required considerable fuel, local brickmakers, having establishments in the lower part of the city, found it difficult to secure sufficient supply. For a time they felled trees in the Commons, but the common council generally prohibited this practice.[1] Though several favored individuals were privileged by the board to dig clay pits and set up brick kilns on the Commons, at rentals of from ten to twenty shillings, less fortunate persons were compelled to lease ground further north.[2]

One manufacturing industry not under the ban of the home government was shipbuilding, which became so extensive as to excite comment from visitors to the city. It gave employment to many hands and it accounts for the numerous freemen registered in the city records as "ship carpenters" and "ropemakers."

The several groups of freemen naturally exerted pressure upon the common council whenever their interests were concerned. As one would expect, this power varied with the different economic classes, for the artisans or "mechanics," though numerically strong, were far less influential than the merchants. We find that the response of the governing bodies to petitions depended to an extent upon this fact: whether or not these came from persons of consequence. For a number of years, city freemen engaged in the building trades, carpenters and bricklayers in particular, found active competitors in persons coming from the surrounding country, especially New Jersey. These were said to stay out of the city until after the collection of taxes. As a result local mechanics, who were under the expense of paying municipal taxes, complained that non-residents were

[1] *M. C. C.*, vol. iv, pp. 111-112. [2] *Ibid.*, p. 484; vol. v, pp. 22, 325.

"offering the Service of themselves, Journeymen and Servants, at Sundry places, and as many Sundry times at a Rate of 20 or 30 Pounds per Job or distinct article of Workmanship less than has been agreed upon by us." [1] Such outsiders did not even patronize local tradesmen, "not so much as buying a pair of Shoes in the City of New York, but frequently bringing Nails and other Materials for Building & along with them from the Jerseys and other provinces." To check such ruinous practices, a petition with about one hundred signatures was presented to Governor Clinton, but it encountered rather a cold reception. He turned the matter over to his councillors, one of whom, Daniel Horsmanden, also holding the office of city recorder, carefully analyzed it. He sought to discredit the list of signers, claiming that there were several forged names and adding that "the Bulk of the persons who may be supposed to have subscribed their Names are obscure persons altogether unknown to us in person and name excepting a very few of them." Finally Horsmanden, who was always more considerate when matters involving the interests of the local merchant aristocracy were at issue, dismissed the whole subject by recommending that the petitioners apply to the mayor's court.

After similar rebuffs these artisans came to understand fully the value of concerted action, and, as early as 1767, the "Friendly Society of Tradesmen, House Carpenters" was organized.[2] The age limits of members of this body were twenty-one and forty. Stated monthly meetings were held, at which any disorderly or drunken persons were heavily fined; in fact it appears that one of the purposes of the organization, in addition to regulating business,

[1] Manuscript in the papers of Daniel Horsmanden, in Library of N. Y. Hist. Society.

[2] Broadside entitled "Articles and Regulations of the Friendly Society of Tradesmen, House Carpenters," dated, March 10, 1767, in N. Y. Public Library.

was to put a check on inebriety. Benefit features were also included in the constitution, for sick members received fixed sums every week they were unable to work. The lodge also met the expenses of a brother's funeral, which all were expected to attend.

Thus organized, these workers were better able to force their demands upon the government. In 1769 they called the attention of the common council to the fact that "a Considerable Number of Country Carpenters have for Some years past Come into this City in the Summer Season and followed their Trade and in the fall Return again to their familys without paying any Taxes or assessments."[1] On this occasion action was apparently taken which differed much from that referred to above, for a committee of the board was immediately appointed and ordered to report "with all Convenient Speed." Other illustrations of the power of the carpenters are not lacking. Their organized opposition was partly instrumental in suspending the operation of an act concerning the roofing of houses in the city.[2]

But even more efficiently organized were the local merchants, and they consequently exercised great influence over the common council. In later years this was wielded mainly through the chamber of commerce, founded in April 1768.[3] The meeting place of this body was the "Merchant's Exchange," at the lower end of Broad Street. This building, originally intended as a place for such gatherings, was erected in 1752 by subscriptions from the inhabitants and by appropriations from the corporation.[4] The work of construction was conducted by the common council, which made up all specifications.[5] Upon completion, the building

[1] *M. C. C.*, vol. vii, p. 177.
[2] *Vide infra*, chapter on "Fire Protection."
[3] Stevens, *Colonial Records*, pp. 3-4.
[4] *M. C. C.*, vol. v, pp. 367-368, 375.
[5] *Ibid.*, pp. 380-381.

was rented to several persons successively until, in 1769, the corporation granted the use of the Exchange to the chamber of commerce, at an annual rental of £20.[1]

The express purpose of the chamber of commerce was the "adjusting disputes relative to trade and navigation and procuring such laws and regulations as may be found necessary for the benefit of trade in general."[2] The latter object was fully attained, for upon several occasions the organization directly requested the common council to pass certain regulations, and in this it was uniformly successful. When such favors were desired, a committee of the chamber usually approached the mayor and laid the proposed ordinance before him. At one time there was an urgent request from the chamber of commerce for a more effective ordinance on the cutting of lumber; so a committee communicated this desire to the mayor.[3] Not long thereafter he submitted a draft of such ordinance to the chamber of commerce, which, after careful consideration, gave its approval, and it was soon incorporated in an ordinance by the common council.[4]

Local export merchants were always solicitous for a proper supervision of the packing of meat; for it was to their interest to supply products of high quality for foreign markets. We have seen above that the common council made ample provision in this respect, and these municipal regulations were maintained in full force, due to constant pressure of the merchants upon the board. On several occasions amendments to the rules on the packing of beef and pork were recommended to the mayor, who in turn submitted the suggestions of the chamber of commerce to the common council.[5] This body did not go through the for-

[1] *M. C. C.*, vol. vi, pp. 3, 47, 78; vol. vii, p. 149.
[2] Stevens, *op. cit.*, p. 3.
[3] *Ibid.*, p. 59.
[4] *M. C. C.*, vol. vii, pp. 197, 226.
[5] Stevens, *op. cit.*, pp. 63, 70-71.

mality of incorporating the proposals in an ordinance, but it appears that thereafter they were followed by the public inspectors of meat.[1]

The purpose of this chapter has been to sketch briefly the business activities in colonial New York and to indicate the tendencies in the legislation of the common council in the several fields. It was noted that, in regulating its commerce, in inspecting the commodities for exportation or for home consumption, in solving its excise problem, in controlling its public markets, and in granting industrial privileges to its freemen, the corporation acted in harmony with the principles of paternalism. It was also observed that the economic interests of the city of New York lay mainly in commerce, so that trade, not land or manufactures, formed the basis of its wealth. Not alone were wholesale merchants, traders, and retail shopkeepers dependent upon this pursuit for their livelihood, but also it gave occupation to many other inhabitants. The inspectors of commodities, cartmen who handled merchandise, distillers of liquors, millers, bakers supplying flour and bread for the export trade, and coopers making casks for meat packing—all were more or less concerned in the welfare of the city's commerce. This accounts for the extensive influence of the merchants over the common council and the frequent shaping of municipal regulations to suit their wishes. In contrast to this economic group were the artisans, who were weak politically despite their strength in numbers. Though these merchants and mechanics had interests in common, it was seen in the previous chapter that certain factors, at times, operated to bring about a clash between them.

In addition to this division between merchants and artisans within the municipality, as we saw, there existed

[1] *M. C. C.*, vol. vii, pp. 209-210.

a conflict of interests between the city as a consumer and the surrounding counties as producers. It was shown above, that the city, dependent as it was upon the outside region for its food supply, sought to regulate its sale, with a view to benefit its own residents. Dissatisfaction with the ordinances of the common council frequently resulted, and the country people had recourse to the assembly, where the votes of the rural interests were usually sufficient to overwhelm any opposition from the representatives of the city. Fortunately for the municipality, the upper house proved friendly and blocked hostile legislation. Citing the instances of the failure of assembly bills to regulate the city markets and the sale of firewood, one is led to the conclusion that the city was successful in resisting the attacks of the surrounding counties against the municipal laws dealing with certain business activities.

Finally, there persisted a more extended conflict, one between the colony as a whole and the home government. The latter exercised a significant jurisdiction over the economic interests of the city, especially over the manufactures. True to the mercantilist principle that colonies existed only for the benefit of the mother country, and that all manufactures should be a monopoly of the realm of England, every effort was made to suppress them. The study of manufactures in the city within the period under review discloses a growing interest in this field, notwithstanding the restrictive acts of the British government. This hostility caused widespread dissatisfaction in New York, and the ill feeling was further intensified as the profits in the export trade declined with the growth of competition from New England and Pennsylvania in foreign markets. The crowding of capital in commerce and the consequent decreasing returns were fully appreciated by Lieutenant Governor Clarke, who, in 1736, wrote as follows: "The Markets for your Flour (the

present staple of the Province) are already so much overdone, by the great Importations that are made to them, from this and other Northern Colonies, that unless some Manufactures be set on Foot, that are wanted in Great-Britain, or do not interfere with theirs, there will be no Way to imploy the People to any Advantage." [1] These views were not shared by the home government, and the policy of suppression was continued, thus widening the breach between colonists and mother country.

[1] *Assemb. Jour.*, vol. i, p. 689.

CHAPTER IV

Administration of Charities and Correction

Municipal ordinances dealing with charities and correction may be placed under three heads, as they relate to paupers, to the sick and to prisoners. Solving the problem of relieving the needy was rendered difficult because of the tide of immigration which was pouring into New York even in colonial days. Foreigners often landed in port robbed of their last penny by avaricious sea-captains and sick from bad rations, foul water and crowded conditions on shipboard.[1] Other immigrants arrived only to meet with disappointment and to find no opportunity to ply their trades. We read of certain Yorkshire weavers who, upon arriving here, could find no employment.[2] Military necessity occasionally drove refugees to this city. A number of Newfoundland families who sought protection from the raids of the French, in 1762, had to be cared for by the municipality.[3]

It was not due to lack of legislation that paupers were permitted to land, for the province had required masters of vessels to inform the mayor, within twenty-four hours after arrival, of the identity and the condition of their passengers.[4] If, upon examination, immigrants were considered unfit, either they were shipped back to the port of embarkation,

[1] *M. C. C.*, vol. vi, p. 9.
[2] *Doc. Hist.*, vol. i, p. 498.
[3] *M. C. C.*, vol. vi, pp. 297-298.
[4] *Col. Laws*, vol. ii, pp. 56-61.

or else the captain gave £50 as security to indemnify the local government. Although the mayor was thus vested with full powers to exclude undesirable immigrants, he was usually lax in enforcing the law.[1]

An act passed in 1693 provided for a poor rate which was to be administered by a board of vestrymen and wardens, who, notwithstanding their title, were civil and not ecclesiastical officers, elected annually by the voters of the city.[2] For many years this election occurred on the second Tuesday in January, but in 1770 the date was changed to September 29, the day for the regular municipal elections.[3] At first ten vestrymen were chosen, but after 1745, there were fourteen, two being returned from each ward. In addition, two wardens were elected from the city at large. The vestry of the municipality was in no way associated with that of Trinity Church, for each board conducted its affairs independently of the other. The former was a civil body, the latter was ecclesiastical. The members of the city vestry were usually dissenters, and at times clashed with the Trinity board. This is shown by a dispute over a charitable bequest which had fallen to the latter, but which was claimed by the former also.[4]

At first the poor rate was collected in winter, but this time of the year proved inconvenient because the weather was then at its worst, and "Family expenses were higher than at any other season."[5] Therefore, in 1775, the date of assessment was postponed to the first Tuesday in May, and collections likewise were deferred. The annual revenue

[1] *Independent Reflector*, Dec. 28, 1752.
[2] *Col. Laws*, vol. i, pp. 328-331.
[3] *Ibid.*, vol. v, pp. 85-86.
[4] Dix, *Hist. of Trinity Church*, vol. i, p. 245.
[5] *Col. Laws*, vol. v, p. 719.

from the poor tax rose steadily to several thousand pounds in the later years of the colonial period. During times of stress, such as followed the passage of the Stamp Act, even this large fund proved insufficient to relieve the needy, and the common council gave £200 from the city treasury to wardens for the aid of the poor.[1] Although the actual distribution of the poor fund was the task of the wardens, they acted usually on an order from the mayor's court.[2] This body heard appeals for aid, and, if the applicants were considered deserving, the court ordered the wardens to pay specific sums.

For want of a municipal poorhouse, the city's paupers were boarded at public expense in private families, but this system was economical only so long as such recipients were few in number. The necessity of an institution for the work of charities and correction came, in time, to be generally felt. The Montgomerie Charter, in 1731, took official recognition of this need by empowering the corporation to construct an almshouse.[3] In December 1734, the common council finally voted in favor of the proposal.[4] The undertaking was financed by means of appropriations from the city treasury, not from the poor fund; and by March 1736, the new almshouse, a two-story brick structure, stood ready for occupancy, near the site of the present City Hall.[5]

The new building served a threefold purpose. In the first place, it was used as a house of correction, where unruly servants and disobedient slaves might be sent by their masters to be whipped. It also served as a workhouse for all "Beggars, Servants running away or otherwise misbehaving themselves, Trespassers, Rogues, Vagabonds, poor

[1] *M. C. C.*, vol. vi, pp. 403-404.

[2] Minutes of the Mayor's Court, Nov. 19, 1723, *et seq.*

[3] *Col. Laws*, vol. ii, p. 617.

[4] *M. C. C.*, vol. iv, pp. 240-241, 250-251.

[5] *Ibid.*, p. 307.

persons refusing to work." [1] Lastly, it was an almshouse for paupers, both old and young. The former were put to work at spinning or at farming, but young paupers, however, were generally hired out as apprentices to inhabitants of the city.[2]

In March, 1736, the common council advertised for a suitable keeper and, after several applicants had been heard at the City Hall, the position was awarded to John Sebring at an annual salary of £30, together with board and lodging for himself and family.[3] In addition to this allowance, the keeper generally received, for every servant or slave whipped, 1s 6d from the master. The lash was actually wielded by the public whipper, who was hired at the expense of the corporation, and it is interesting to note that a certain keeper was allowed £20, besides his regular salary, to indemnify him for "the many perquisites he has lost Occasioned by the said House of Correction Being Without any Whipper for a Considerable time." [4]

At the monthly meeting of the city vestry, matters concerning the administration of the almshouse were discussed, and instructions were given to the keeper. If he failed to observe them, the vestrymen could petition the common council for his dismissal, as in the case of one Robert Provoost, who was discharged for failure to obey the vestry's orders.[5]

The aldermen were naturally much interested in the administration of the almshouse. As members of the common council, they voted the appropriations, and, on two occasions, they issued instructions regarding the management of charities. In 1736 a report containing detailed directions

[1] *M. C. C.*, vol. iv, pp. 309.
[2] *Post-Boy*, June 18, 1750.
[3] *Ibid.*, vol. iv, pp. 307.
[4] *Ibid.*, vol. vi, p. 385.
[5] Petition, dated May 30, 1755, in filed papers, city clerk's office.

was presented by a committee of the common council,[1] and ten years later fifty copies of an "Essay on the duties of the Vestrymen" were printed at the expense of the corporation.[2] As justices, the aldermen also had intimate dealings with affairs relating to charities and correction. In the mayor's court they committed paupers to the almshouse; and in the court of quarter sessions they placed petty criminals in the custody of the keeper of the workhouse.

From the above review, it must be apparent that the administration of the work connected with relieving the poor lacked centralization, entrusted, as it was, to keeper, wardens, vestrymen, and aldermen. With responsibility thus divided, it is little wonder that peculation existed.[3] The larger part of the charitable work in the city was always supported by private individuals, societies and churches, without any connection with civil relief.

Besides the relief of the poor, another form of public charity was the care of the sick. At first the municipality performed this function only on a small scale, by paying the fees of a local doctor for his attendance on sick paupers. Later, in order to protect the community from contagion, the sanitation work of city government was developed, a system of quarantine established, a pesthouse built, and a hospital supported.

In June 1738, a temporary quarantine was instituted on Bedloe's Island to prevent smallpox from being brought into the city by vessels hailing from South Carolina and other places where the dread disease was then raging. The provincial council entrusted to the mayor of the city the exe-

[1] *M. C. C.*, vol. iv, pp. 307-311.

[2] *Ibid.*, vol. v, p. 213.

[3] Report of Peter Curtenius, in filed papers, city clerk's office.

[4] *Ibid.*, vol. iv, p. 429.

cution of quarantine regulations. These required pilots to steer all suspected ships to Bedloe's Island, where a doctor inspected all persons on board, and, if his report was satisfactory, the mayor was empowered to grant the captain permission to proceed up the harbor.[1] The corporation continued to perform this inspection until 1755, when the province assumed exclusive control of quarantine regulations.[2]

In 1758 the common council purchased all of Bedloe's Island in order to erect a building for the reception of persons afflicted with contagious diseases.[3] Two years later the structure was completed, and sick persons were removed from Manhattan to this island.[4] In 1773 the corporation erected barracks on the same island, and later a number of British soldiers were placed in these quarters.

Of considerable importance to the welfare of the city's poor would naturally be the erection of a hospital. Such an institution was established in 1771, through the royal letters patent granted in the name of King George III. The original style of this corporation was "The Society of the Hospital in the City of New York in America," its present name, "The Society of the New York Hospital," having been adopted in 1810, although it has always been popularly called the New York Hospital. As chartered, it was semi-public in character, the mayor, the recorder, the aldermen, and even the assistant aldermen, being ex-officio members of its board of governors. Both provincial and city governments made liberal gifts to the institution, the legislature voting an appropriation of £800 annually for twenty years, and the municipality offering, as a site for the hospital, a

[1] *M. C. C.*, vol. iv, p. 429.
[2] *Col. Laws*, vol. iii, pp. 1071-1073.
[3] *M. C. C.*, vol. vi, pp. 124-125.
[4] *Ibid.*, pp. 162, 203; vol. vii, p. 429.

lot of land 124 by 248 feet in front of the Commons, a tract including the present City Hall Park.[1] The governors of the institution, however, decided upon a five-acre plot of ground west of Broadway, between Duane and Worth Streets, and asked for a cash bonus in lieu of the land. The common council responded by bestowing £1,000 upon the hospital and, in addition, by offering a house as temporary quarters. It is said that $18,000 was spent in building the hospital, the corner-stone of which was laid in 1773, but which was destroyed by fire when nearly completed in 1775. A year later it was rebuilt, but the outbreak of the Revolution prevented its utilization as planned. It was requisitioned by the State of New York for American soldiers and later occupied as a barracks for Hessian troops.

Passing from a consideration of the maintenance of the poor and the sick, we turn to a study of the punishment of criminals. In this survey we must remember that New York in the colonial period merely followed harsh practices common during the eighteenth century. In addition to debtors and offenders against its own ordinances, the corporation was required to support in its jails, and also to punish, prisoners of the province, including felons, pirates and captives of war. This task was performed by the municipality, with scarcely any subsidy from the province.[3]

For many years the corporation used the basement of the City Hall as a jail and imposed upon the supervisor of the watch the duties of prison keeper.[4] For this service he was given rooms in the building and lodging for his family, and was usually allowed by the mayor's court four shillings

[1] *M. C. C.*, vol. vii, pp. 311-312, 364.

[2] Stevens, *Colonial Records*, p. 344.

[3] *M. C. C.*, vol. vii, p. 335. Colden, *Letter Book*, vol. i, p. 358.

[4] *M. C. C.*, vol. iv, pp. 325, 370.

a week for the board of each prisoner who might be "an object of charity." [1] Prison quarters in the City Hall were retained until 1759, when a new jail was constructed in the Fields, at the northeast corner of the present City Hall Park.[2] Andrew Burnaby, a widely traveled Englishman, observed that it was one of the finest prisons he had ever seen.[3] Indeed, it was a solidly built brick structure with double floorings and considerable iron work. Though commonly known as the "New Gaol" it was also called the Debtors' Prison.[4]

The time came when the accommodations of even the New Gaol were found inadequate. One reason was the overcrowding of the building through the imprisonment of numerous French and Indian captives. Another cause for the need of additional quarters was the new municipal policy of segregating from the more hardened criminals those prisoners who were confined for debt or for light offences.[5] To carry out this plan two rooms of the new jail were set aside until an additional building could be erected.

It was not till after considerable delay that the common council began to deliberate on the plan and site of the "Bridewell," as the new structure was to be called. The site for the building was finally decided upon in the Fields, on what is now Murray Street, on a line with the new jail and the almshouse.[6]

Upon its completion, in 1775, the bridewell, a grey stone structure of two stories and basement, was undoubtedly the most imposing public building erected on Manhattan Island during the colonial period. Historic landmarks were

[1] *M. C. C.*, vol. iv, p. 422. Minutes of Mayor's Court, *op. cit., passim.*
[2] *Col. Laws*, vol. iv, pp. 355-357.
[3] Burnaby, *Travels*, p. 83.
[4] *Historic New York*, vol. ii, p. 97.
[5] *M. C. C.*, vol. vii, p. 87.
[6] *Manual* (1862), p. 553.

rapidly erased, owing to the development of the lower city, but the bridewell remained for over sixty years in the busiest section of lower Manhattan. The building served the British as a prison for American soldiers captured during the Revolution; and it is said that, at one time, over eight hundred prisoners were crowded into it, although the structure was not expected to accommodate half that number.[1]

The corporation was not fortunate in its choice of prison keepers. We noted that the duties of this position at first had been regarded as so simple that it they been delegated to the supervisor of the watch. In 1738 the two offices were separated, and the common council appointed as jail-keeper one James Mills, who was given rooms in the City Hall for himself and his family.[2] The board, in 1753, chose as jailer a man named John Christie, who held the position until his death, in 1756.[3] This incumbent did not prove satisfactory, for, among the several bills he submitted for the board of criminals confined in the prison, was one for £86, which sum was considered "very unjust and unreasonable."[4] When the new jail was completed, the common council once more appointed as keeper James Mills, and his service again was not free from serious fault. At one time he was charged before the supreme court with maltreating prisoners under his care and was also indicted for extortion by the grand jury.[5] Notwithstanding this presentment, the corporation retained Mills as keeper, and he continued to serve in this capacity until his death, in 1771.[6]

[1] *Journal of Oliver Woodruff*, Westervelt collection, N. Y. Pub. Library.
[2] *M. C. C.*, vol. iv, p. 422.
[3] *Ibid.*, vol. v, p. 430.
[4] *Ibid.*, vol. vi, p. 63.
[5] Petition, dated Aug. 21, 1769, in filed papers, city clerk's office.
[6] *M. C. C.*, vol. vii, p. 335.

When the bridewell was established, with its separate quarters for debtors and persons confined for light offences, an additional keeper became necessary. Though the idea of a civil service examination was apparently not thought of by our early city fathers, still they were open minded enough to advertise their willingness to receive proposals from individuals desiring to apply for the position of custodian of the bridewell. From among the candidates the common council selected William Dobbs, who received a salary of £35 annually, and was also entitled to any profits he might derive from hiring out prisoners per diem to the inhabitants.[1] In addition the keeper was paid for boarding poor prisoners and was also supplied with sundry material such as straw, coal and wood.

The tenure of William Dobbs as bridewell keeper was threatened in August 1769, when John Cox, a prisoner in the new jail, applied for the same position.[2] In his petition to the common council he offered to give security, and also to reduce the expense to the corporation for maintaining the prison, by feeding the inmates at his own expense. In spite of these proposals, the common council deemed it unwise to leave any of its charges to the care of a former prisoner, and it reappointed William Dobbs, who continued as keeper until his resignation, in 1773.[3] He was succeeded by one Alexander Montcriff, who held the position until the Revolution.

Sanitary conditions in the city prisons were scarcely commendable. Smallpox on one occasion appeared among the prisoners. Occasionally precautions against disease were taken, as is shown in the following extract from the *Mercury*: "Nine of the Indians who have for some Time past

[1] *M. C. C.*, vol. vii, pp. 89, 92, 213.

[2] *Ibid.*, 176.

[3] *Ibid.*, pp. 414, 435.

been confined in the New Goal, were sent to several Goals on Long Island, lest any infectious Disorder should arise from the Confinement of so many persons together." [1] Free medical inspection was accorded to poor inmates of the city prisons when need arose; for example, a doctor was allowed £23 for attendance on poor persons in the new jail.

Conditions in the municipal jails were not considered satisfactory even by contemporary authorities. Provincial officers found much to complain of in the prison administration of the corporation; sheriffs protested constantly to the common council; a chief justice condemned the jails; and a grand jury brought in findings against the cells in the City Hall.[3] Here quarters were abominable, but even in the new jail and in the bridewell little attention was accorded to the comfort of these unfortunates. The suffering in winter is described by the *Journal,* which states that "the Distress of the Prisoners confined in the Goal of the City appears to be very great, they being in want not only of Firing but even the common Necessaries of Life." [4] The unhappy inmates would occasionally issue an appeal for public aid through an advertisement such as the following: "Besides our Misfortune of Confinement, we are under great Necessity for want of Firing, not having at this time [March] one Stick to burn; nor have not had for several Days, and unless we are relieved by some charitably disposed Persons, we must unavoidably perish in this Place." [5]

Fortunately for the prisoners, private agencies were more helpful than was the government, and these responded generously to the appeals of the inmates. The distressful case described in the notice above was relieved by private sub-

[1] *Mercury,* Sept. 17, 1764.
[2] *M. C. C.,* vol. vii, p. 411.
[3] *Ibid.,* vol. iii, p. 359.
[4] *Journal,* Feb. 6, 1772.
[5] *Post-Boy,* March 11, 1751.

scription.[1] Benefit performances were also held in the local theatre, part of the proceeds being contributed to the relief of prisoners. Nor did the church neglect this opportunity for dispensing worthy charity. Ministers also offered their services in another way, for criminals condemned to death on the gallows were usually offered the solace of religious instruction.[2]

The wretched condition of the jails gave prisoners additional reason for efforts to escape, and for this opportunity was not lacking. According to the *Minutes of the Mayor's Court*, it seemed impossible to keep a prisoner within the cells of the City Hall, once he had determined to leave. The newspapers also contain accounts of many daring escapes. As part of the responsibility for the safekeeping of prisoners rested upon the sheriff, he usually advertised the escape of criminals and offered a reward for their capture.[3] The keeper of the jail also shared in the blame for such derelictions and occasionally gave £5 for the return of a fugitive.

Besides imprisonment, other means of correcting offenders were used, whipping being the commonest. For acknowledging himself to be a Roman Catholic, one resident, in 1745, was so unfortunate as to receive eleven lashes on the bare back, and for stealing a handkerchief another was given nine stripes.[4] Either the whipping took place in front of the house of corrections, or, else the criminal was tied to a cart and paraded through the streets.[5] Such punishment was not confined to men alone. At one time eleven women of bad reputations were disciplined at the whipping post.[6] Other means of punishment, so popularly associated

[1] *Post-Boy*, March 18, 1751.
[2] *Journal*, Feb. 12, 1767.
[3] *Post-Boy*, June 4, 1750.
[4] *Minutes of Court of General Sessions*, May 8, 1745.
[5] *Mercury*, Feb. 11, 1760; *Post-Boy*, Nov. 27, 1752.
[6] *Ibid.*, Aug. 11, 1755.

with colonial times, are seldom mentioned in the records of the period under review. To the ducking stool no reference can be found, and even the stocks cease to be mentioned in the minutes of the common council after 1740.[1] One newspaper, so late as 1764, states that "a New Pillory with a large Wooden Cage behind it, was erected between the New Goal and the Work House. The Cage is said to be designed for disorderly Boys, Negroes, &c. who publickly break the Sabbath."[2]

The number of criminals hanged in the city was appalling, for the old English penal code with its numerous capital offences lost little of its severity as enforced in the colony.[3] At one sitting of the supreme court, three men were condemned to death on the gallows: John Higgins, for altering bills of credit, and John Anderson and Abraham Van Arnum for burglary.[4]

From the facts thus considered, several general tendencies in the administration of charities and correction may be noted. It is clear that this function was shifted almost entirely from the province to the municipality. The city fathers, in turn, were not very active in charitable undertakings, and depended to a large extent upon private aid in caring for the indigent. In dealing with its dependent classes, the city of New York, as a typical eighteenth century government, generally followed a policy which implied neglect of both health and comfort. However, with the close of the period, signs of a broader social view appear in the generous contribution toward the New York Hospital, in the building of more commodious jails, and in the separation of prisoners according to the degree of their offense.

[1] *M. C. C.*, vol. v, p. 8.
[2] *Mercury*, Sept. 10, 1764.
[3] *Vide, Minutes of Supreme Court, op. cit., passim.*
[4] *Mercury*, Feb. 1, 1762.

CHAPTER V

Keeping the Peace

The cosmopolitan population of New York contained several elements tending to promote crime. Besides the normal amount of disorder to be expected from a large community, breaches of the peace were frequently caused by the unruly acts of soldiers, sailors, slaves, and transported felons.

As New York was a garrison town, it was burdened with the presence of British regulars who were always creating trouble for the local authorities. Occasionally encounters between these soldiers and the municipal guardians of the peace occurred. One of such disturbances took place on a winter night in 1764, when a party of redcoats attempted to rescue one of their officers confined in the city jail for debt.[1] The soldiers, fully armed, advanced upon the prison, discharged their guns and forced their way through the gates. Alarm bells aroused the inhabitants and soon brought the city militia to the scene. Then followed an encounter in which several persons received serious injuries and a sergeant lost his life. A general jail delivery was halted, as, notwithstanding the confusion, only four prisoners made their escape.

The disorderly conduct of the soldiers was at times emulated by their wives, some of whom were now and then brought before the mayor's court. From the records of

[1] *Post-Boy*, Jan. 19, 1764.

that body we are informed that Frances Sutton, wife of one of the soldiers, was held by the court until she could "find justices for her good Behaviour and her Personal Appearance at the Next Sessions, for a Notorious assault and Breach of the Peace by her Committed upon Judith Roberts and Breaking of her Windows." [1]

Military officers often caused serious disturbances by leading press-gangs through the city. This was the case again and again, during the last intercolonial war between England and France, when men were sorely needed to fill the ranks and to maintain the ships of war to their full complement. At times the press was actively resisted, this resulting in bloody encounters. One Sunday morning in April 1758, one Captain Farmer, accompanied by a file of soldiers, boarded the "Charming Jenny," a ship moored to one of the city wharves.[2] He seized several sailors but four others escaped to the roundhouse, where, armed with blunderbusses, they bade defiance to their would-be captors. Captain Farmer and a city magistrate called upon them to surrender, but their only answer was a sharp volley, resulting in the death of the captain. A party of regulars then stormed the roundhouse, seized the four sailors and soon lodged them in jail under a charge of murder. On the same morning another press-gang was active in the outskirts of the city. Here a house was surrounded, but its inmates refused to answer the boisterous summons of the soldiers. The officer in command lost patience and ordered his men to open fire. One of the inmates was killed and another was wounded. This outrage was not permitted to pass unpunished, for a coroner's verdict of murder was found against the officer in charge.

[1] *Minutes of the Mayor's Court*, Jan. 20, 1724.

[2] *Gazette*, May 1, 1758.

Even more serious than these occurrences was the attempt to impress the crew of the "Samson," a formidable vessel of twenty-two guns and sixty-seven men.[1] As the "Samson" sailed up the harbor, it was hailed by a barge from the "Winchester," a British man-of-war. The crew of the merchantman knew full well the object of such a visit and opened fire as the barge came within musket range, killing four men. The "Samson" in full sail then hurried to dock. The "Winchester" followed, the aid of the lieutenant governor was quickly enlisted, and a warrant was secured from the mayor for the arrest of the seamen. These, however, outwitted the authorities, came ashore fully armed at some distance from the city, and escaped.

The size of these press-gangs was at times exceedingly large and their work was very extensive. On one occasion, the inhabitants of the city were roused from their sleep in the early hours of the morning by the heavy tramp of three thousand soldiers marching through the streets in search of men for the army.[2] From taverns and even from private houses the unfortunates were dragged, until eight hundred had been seized. Only half of this number, however, were detained. The vessels in the harbor were then visited by squads of soldiers, and many unwilling recruits were brought ashore.

How the public viewed these proceedings may be illustrated by an occurrence in 1764. Four fishermen had been taken from their boats while on their way to the city markets and had been held on board the "Leander," a ship of the royal navy.[3] Shortly after, when the captain came ashore, he found himself surrounded by a threatening mob

[1] *Col. Docs.*, vol. vii, p. 446.

[2] Ford, *Journals of Hugh Gaine* (N. Y., 1902), vol. ii, p. 8.

[3] Dawson, *Sons of Liberty in New York* (N. Y., 1859), pp. 54-55.

of angry citizens. The naval officer prudently extricated himself from this dangerous position by proceeding to a nearby coffee house and signing an order for the release of the four fishermen. A party was immediately dispatched to the "Leander" with the order, and in a short time the men were brought to land. But the mob, not fully satisfied with these amends, seized the captain's barge, dragged it through the streets to the Fields and there set it on fire. As soon as the work was accomplished, the crowds dispersed, and, when the city magistrates met in the afternoon, they discreetly concluded that it was impossible "to discover any persons in the mischief."

In the following statement Lieutenant Governor Colden also testified to the general disapproval of impressment:

> Some other Captains of His Majesty's ships had distressed the town by pressing men from the market-boats & wood boats & by other acts of severity, whereby the people in the town & country had generally received strong prejudice; and the Merchants in this port had suffered by their seamen's removing to the neighboring Colonies where they were free from any press.[1]

Since the city was a port visited by many vessels, it always contained a large transient population from which trouble might well be expected. Sailors on shore leave frequented low water-front groggeries where flourished gambling and vice, and drunken brawls occurred, sometimes ending in murder. Captains of privateers, seeking crews, made their quarters at these taverns. Here would be planned those bold, half-piratical ventures against Spanish and French commerce. Then, too, incoming ships brought numerous convicts transported fresh from English prisons to the colonies.[2] These unfortunates, without immediate

[1] *Col. Docs.*, vol. vii, p. 446. [2] *Independent Reflector*, March 5, 1753.

means of subsistence, would often steal or break into houses. Such offences had become so frequent by 1742, that the "watch," as the city police force was termed, had to be augmented, in order to maintain a more effective surveillance over the "Great Numbers of people Coming into this City from all parts: Some whereof are Suspected to be Convict ffelons: Transported from Great Britain and Ireland." [1]

In keeping order the city authorities were confronted with a serious problem arising from the presence of large numbers of negro slaves. Most of them were the descendants of blacks brought to Manhattan by slave traders, either during the Dutch period or in the early years of British occupation.[2] Comparatively few negroes were brought into New York in the later English period, as is evidenced by the census figures, which show that the negro population reached its maximum proportion about 1746, when it amounted to over one-fifth of the total population of the city.[3] From then until the Revolution the blacks declined in relative importance, as their number was increased by only a few hundreds, while the number of whites was augmented by thousands.

The slave population was located mainly in the settled districts of the city. Apparently very few were employed in farming, as one census for the Out Ward, the rural district of Manhattan, showed but forty-three slaves in that section.[4] They were usually employed in operating ferry or market boats, driving carts, hauling water and performing general domestic services.[5]

[1] *M. C. C.*, vol. v, p. 77; see also vol. iv, p. 123.
[2] *Historic New York*, vol. ii, pp. 3-11.
[3] See chapter i.
[4] Miscellaneous Manuscripts in N. Y. Hist. Society.
[5] *M. C. C.*, vol. iv, pp. 89-90, 461. *Gazette*, June 12, 1749.

Not all negroes were slaves, a considerable number of them having been manumitted. A master would appear in the court of quarter sessions and ask that freedom be given a certain black servant because of long and faithful service. The freedmen possessed legal rights to a certain degree, for we find them coming before the courts as plaintiffs demanding unpaid wages.

Of course there were many harsh masters, and at times these were upheld by the community in acts of cruelty. One of these was John Van Zandt, who, when his negro servant was brought home by the city watchmen one night, liberally applied a horsewhip upon the offender. The next morning the black was found dead in bed, and it was rumored that his death was the result of the chastisement received the night before. A coroner's jury, however, cleared Van Zandt, finding that "the Correction given by the Master was not the Cause of his Death, but that it was by the Visitation of God."[1]

It is little wonder that many blacks were at times restless and discontented because of harsh treatment, and, observing this, the whites naturally had to maintain a constant watch against uprisings. The so-called "Negro Conspiracy" of 1741 was a product of this continual anxiety. A review of this episode is of interest here, as it throws light upon the problem of guarding public safety in New York during the early days.[2] The trouble started with several robberies, in February 1741, when suspicion fell upon certain negroes who frequented the house of John Hughson, a white man of bad repute. Soon after, he was accused of having received stolen goods, of harboring negroes, and of permitting them

[1] *Journal*, Jan. 5, 1735.

[2] The best account is the *Journal of the Proceedings in the Detection of the Conspiracy* (N. Y., 1744), written by Recorder Daniel Horsmanden, who led in the prosecution of the accused negroes.

to use his house for their drunken orgies. In the following month several buildings in the Fort at the lower end of Manhattan were destroyed by fire. Within the next few weeks several small fires started here and there, but they were quickly extinguished. Certain individuals of excitable nature now believed they saw a connection between the robbery of the previous month and the recent fires. Was not Hughson seeking vengeance for his arrest? Perhaps the blacks were being supported in their mischief by the Spanish, who were supposed to have as their aim the implanting of popery in the colony of New York. This senseless hysteria was easily increased to the proportions of an epidemic. Indeed, even persons of calm judgment were fully convinced that the blacks intended to destroy the city and murder the whites. Any negro whose actions were in the least degree suspicious was immediately arrested, so that in a short time the jails were overcrowded. A proclamation offering a reward to informers soon brought forward a white woman, Mary Burton, who was willing to manufacture such evidence as the magistrates were obviously eager to secure. Her wild and impossible stories added to the consternation. The militia was called out. Hundreds of inhabitants moved their household belongings from the city, which in their minds was doomed to destruction. These panic stricken persons then sought safety in the Bowery and in Harlem, and nightly awaited the dread outbreak of a servile insurrection. Meantime the negroes, the cause of all this groundless fear, were being huddled into jail and terrorized into confessing the most improbable crimes. Upon this conflicting testimony several persons were condemned, after trials which conformed to all legal requirements of the day. Quack and Cuffee, two negroes, were the first to be executed. The poor wretches, protesting their innocence, were dragged to the stake through an angry crowd of spectators. Every

effort was made to extort a confession from them, and at length they made statements satisfactory to the magistrates. One of these now desired to delay the execution, but was deterred from doing so by the determined attitude of the by-standers. Fagots were piled around the negroes and the torch was applied. Hughson, his wife, and another white woman were hanged for participation in the supposed conspiracy. For several weeks, negroes were hurried to the stake, begging for mercy until their shrieks were silenced by the crackling flames. For days, the bodies of blacks hung in chains from the gibbets until the stench of decomposition became a menace to public health. By summer the panic at last subsided, and once more reason was restored.

What judgment of the whole affair is reached by an impartial investigation? An analysis of the available sources of information, including Horsmanden's *Journal of the Conspiracy*, leads one to doubt absolutely the existence of any such plot. In fact, Horsmanden admitted that even in his own time there were "some wanton, wrong-headed Persons amongst us, who took the Liberty to arraign the Justice of the Proceedings, . . . [and] declared That there was no Plot at all." [1] Whatever may be the facts, this instance of utter brutality forms a fitting interlude between the horrors of Salem witchcraft on the one hand and modern lynchings on the other.

Turning now from these serious offences against public order, we find accounts of numerous violations common to most communities, even at the present day. These acts varied in the degree of their gravity. From the court records we learn of such minor offenders as Joseph and Edward Anderson, who were arrested for grievously as-

[1] *Journal of the Proceedings in the Detection of the Conspiracy*, preface, p. v.

saulting a watchman who was marching them to the guard house for playing with a bat and ball during the time of divine service.[1] Gambling houses and their suppression constituted a serious problem even in colonial days. The evil results arising from their presence were fully understood by the better class of citizens, and they petitioned the common council "to suppress those Gaming Houses, especially all Billyard, Truck Tables and Cards &c: to which are owing the Impoverishment and Ruin of many in this place, who having contracted a habit of Gaming in their Youth, have not been able to Leave it till Reduced to meer Beggery."[2] Prostitution was a widespread evil and its suppression proved difficult. Raids upon brothels were frequent, and at times sharp conflicts between the inmates and the city watch resulted.[3]

In addition to the lawless deeds mentioned above, the municipality was frequently obliged to restrain the violence of mobs composed of its own citizens.[4] Executions were always well attended by a gathering, sympathetic or hostile, according to the effect of the offender's crime upon the public, and it often required a heavy guard to see that the law took its proper course. When feeling ran high in favor of the condemned man, threats would be made to rescue him from his executioners, and in such cases it became necessary to send for the garrison of the Fort to reënforce the civil officers.[5] Again, it was difficult at times to restrain a mob bent upon venting its wrath against one who had committed a particularly outrageous offense.

[1] Minutes of Quarter Sessions, May 4, 1738.

[2] *M. C. C.*, vol. iv, pp. 311-312.

[3] Minutes of Quarter Sessions, May 4, 1738. *Post-Boy*, Aug. 11, 1755.

[4] *Ibid.*, Jan. 7, 14, April 22, 1754.

[5] *Colden Letter Book*, vol. i, p. 165.

This survey of the disturbing factors in the city indicates that the problem of preserving order was quite difficult. It was solved partly by passing severe municipal ordinances against the disorderly classes mentioned above, and partly by maintaining a patrol of the streets.

The municipality was apparently unable to curb the lawlessness of the soldiers of the garrison, since these often were shielded by the provincial authorities. We even find Lieutenant Governor Colden reprieving a naval officer who had been convicted of murdering a woman.[1] Restrictive measures were passed against disorderly persons entering New York from other colonies or from the mother country. If an offender, brought before the municipal court, hailed from a neighboring province, he not only received punishment but also was sent from the colony.[2] In a vain effort to discover felons transported from England, all masters of in-coming vessels were required to give the mayor, within twenty-four hours of arrival, the names of their passengers.[3] A number of years later, the ordinance was modified to the extent of allowing sea captains but two hours to present their reports.[4] But even these regulations were not enforced by the city officers. Such conditions led persons to wonder why "Thieves, Burglars, Pick-Pockets, and Cut-Purses, and a Herd of the most flagitious Banditti upon earth should be sent as agreeable Companions" to the respectable citizens of New York.[5]

Occasionally the province entered the field of police legislation and enacted statutes to improve the moral tone of the inhabitants. The present anti-gambling law of New York

[1] *Colden Letter Book*, vol. i, p. 43.

[2] *Minutes of Quarter Sessions, op. cit., passim; Post-Boy*, Nov. 9, 1747.

[3] *M. C. C.*, vol. iv, p. 80.

[4] *Ibid.*, vol. v, p. 476.

[5] *Independent Reflector*, March 15, 1753.

State finds its counterpart in a provincial act "to Restrain Disorderly and Unlawful gameing Houses in the Colony of New York." [1] The provisions of another act were aimed at unscrupulous tavern keepers who were wont to have in their possession billiard tables and shuffle boards.[2] Such games of chance as dice and cards also were proscribed by this statute. Another law forbade the operation of private lotteries, which it appears encouraged "Labouring People to Assemble together at Taverns." [3]

Besides above mentioned legislative provisions for preserving order, the municipality maintained an administrative force, known as the "watch." A study of its organization is difficult, for, during the period under review, it was frequently changed. In December 1731, the common council passed an ordinance providing for a citizen's watch composed of all inhabitants living in the six wards south of Fresh Water Pond. Any one not wishing to serve in person was permitted to offer a substitute in "his, her or their Stead." [4] Women were therefore recognized as eligible for duty on the watch, but there is no record of a woman actually serving in that capacity in colonial New York. To prevent evasion of the ordinance, each alderman made a list of all residents in his ward, and, based on the population of each district, assignments for duty on the watch were fixed. Consequently every night at least eight able-bodied men began to watch at nine P. M. and remained on duty until four A. M. From October to March, however, they reported an hour earlier and served until two hours later in the morning.

[1] *Col. Laws*, vol. iii, pp. 460-462.

[2] *Minutes of Quarter Sessions*, May 3, 1749. *Minutes of Supreme Court*, May 21, 1759.

[3] *Col. Laws*, vol. iii, pp. 675-676.

[4] *M. C. C.*, vol. iv, pp. 122-128.

The officers directly in charge of the watch were the constables, two of whom were elected annually in each ward. The position of constable was so little desired by citizens that the common council imposed a fine of £5 or £10 upon those who, after being duly elected, refused to serve.[1] This penalty was imposed upon one Robert Bowne, who in 1742 was chosen constable for the Montgomerie Ward but declined on the ground that an acceptance of the position was incompatible with his religious tenets. Fortunately for Bowne, his stand was upheld in court by the chief justice, who declared that "no Quaker was Compellable to Serve [in] the Office of Constable itt being an Office of Trust."[2] The undesirability of the position of constable may be attributed to the onerous duties attached to it. In addition to serving as guards on certain nights, the constables were expected to notify inhabitants one day in advance of their turn on the watch. For any irregularities, such as "Neglecting or Refusing to Watch as Aforesaid, or being Drunk on the said Watch, or leaving his Watch before his time of Watching be Expired," the constable was liable to a fine of forty shillings.[3]

The officer at the head of the watch was the high constable, who was appointed annually by the mayor. At first it was customary to limit the tenure to one year, and to choose one of the constables elected for that year. But in time the selection was not confined to former constables; instead some prominent citizen was chosen who, as a rule, served for several years. The incumbents of this office acted without pay until 1773, after which date they were allowed £10 per annum.[4]

The high constable was, after all, merely the nominal

[1] *M. C. C.*, vol. v, pp. 156, 182, 277. [2] *Ibid.*, p. 82.
[3] *Ibid.*, iv, p. 126. [4] *Ibid.*, vol. viii, p. 98.

head of the watch, for the real executive officer was the supervisor. Under an ordinance of December 1731, this officer had many duties, for general superintendence of the watch was assigned to him. He was expected to take notice of absence from the watch on the part both of citizens and of constables, and to deliver the names of delinquents to the aldermen of the various wards or to the mayor on the next day. Robert Crannell, a marshal, was appointed supervisor by the common council in 1731 at a salary of £20 per annum.

A watch-house was erected in Broad Street in 1731, at a cost of £60. According to the report of a committee of the common council, it was a two-room brick building, the dimensions of which were twenty-eight by eighteen feet.[1] One chamber, fitted with chairs and tables, was for the use of the guards, while the other was for the confinement of prisoners arrested by the watchmen during the night. Several years later the corporation erected another watch-house for the accommodation of the men who were detailed to guard the city powder magazine during the year 1746, when an attack from the French was expected.[2]

The police system, as established in 1731, obtained only until November 1734, when a new plan was instituted. In place of a force composed of inhabitants who served but a few nights at a time, a fixed guard known as the "constables watch," was employed.[3] It was divided into two squads, each made up of five watchmen and a constable, and each doing duty on alternate nights. Each watchman received from the city £5 10s for five months' service, 20s being allowed in addition for "Encouragement to the Constables to be diligent and Circumspect in performance of the Dutys of their Office."[4] The corporation also supplied the watch

[1] *M. C. C.*, vol. iv, pp. 65-66.
[2] *Ibid.*, vol. v, p. 183.
[3] *Ibid.*, vol. iv, pp. 238, 239, 240.
[4] *Ibid.*, p. 239.

with necessary fire and light. New York was guarded by this force through the winter of 1734-1735.

During the following five years the corporation maintained a very irregular watch. Though it was deemed important to patrol the streets carefully in the long, dark nights of winter, the common council did not feel the need of employing the same guard during the summer months. Therefore, in May 1735, they reduced the number of watchmen from ten to six, and hired these only for a period of two months.[1] The number of watchmen varied also from year to year. In 1738 the force was increased to twelve, but in the following year it was reduced to three.[2] How this small group, hired only temporarily, could efficiently guard the lives and property of ten thousand persons it is very difficult to understand.

In 1741 the serious disturbances incident to the "Negro Conspiracy" undoubtedly taxed the powers of the feeble police force. The fear of further slave insurrections finally made the provincial government realize the inadequacy of the existing watch, and led it to establish in the city a guard of able bodied citizens called a military watch.[3] But in the same year this plan was abandoned, and the province permitted the common council to substitute a new night watch consisting of thirty-six men, divided into three shifts of eleven and one overseer.[4] Each group was on guard one evening in every three, from an hour after sunset until the beating of the reveille the next morning. For the payment

[1] *M. C. C.*, vol. iv, pp. 252, 253. [2] *Ibid.*, pp. 449, 460.

[3] *Col. Laws*, vol. iii, pp. 148-150. The "military watch" was so termed because it was usually an augmented force, heavily armed, and called out when an insurrection or an invasion threatened. *Assemb. Jour.*, vol. i, p. 809. Occasionally both a civil and a military watch were on guard at the same time. *M. C. C.*, vol. v, p. 163.

[4] *Ibid.*, pp. 43-44.

of these watchmen and for other local expenses, the provincial legislature permitted the corporation to raise a tax of £574 12s.

This system of a paid patrol continued until December 1742, when the corporation once more returned to the plan of a citizen watch. Serving on this watch or securing a substitute was undoubtedly an onerous task for the poorer New Yorkers, and we hear them complain, in 1747, that "Many of the Inhabitants of this City have three or four Sons And as Many Servants and Apprentices and all those with themselves Are Obliged to Watch in their Turns which falls out or happens About Once in Every four or five Weeks the plain Consequence Whereof is the Loss of fforty Shillings and Sometimes More to Every Such Inhabitant." [1] Therefore the common council petitioned the governor to relieve the corporation of the military watch and urged that one of the independent companies of soldiers be ordered down from Albany to protect New York. Not very long thereafter, the readers of the *Post-Boy* were overjoyed to read the welcome announcement that a company of fusileers had arrived from Albany.[2]

The plan of a military watch, however, appears to have continued in operation for a number of years while the struggle against Spain and France was in progress. True, a supplementary citizens' watch of seven men was ordered in addition to the military watch, and several constables were regularly paid for night duty, but no provision was made by the corporation for ordinary watchmen.[3] With the increase in the city's population, this system probably became very unsatisfactory. It was a difficult task for constables to keep accurate account of persons detailed for duty, and also it was a hardship for inhabitants of limited means to

[1] *M. C. C.*, vol. v, p. 196.

[2] *Post-Boy*, Oct. 5, 1747.

[3] *M. C. C.*, vol. v, p. 163.

spend either their time in serving personally on the watch or their money in securing a substitute. People of the better class naturally were not inclined to act as night guards, but preferred to hire others for this unpleasant work. Consequently, the personnel of the watch was not high. In fact, it was characterized as a "Parcel of idle, drunken, vigilant Snorers, who never quelled any nocturnal Tumult in their lives; but would, perhaps, be as ready to join in a Burglary as any Thief in Christendom." [1]

The common council returned to the system of a paid standing force in January 1762, and advertised for the services of several able-bodied persons as watchmen.[2] The new watch was under the direction of an overseer—this officer having taken the place of the former supervisor. One Isaac Stoutenburgh, who had served as overseer since 1743, was appointed to this position.[3]

Along with instituting a regular force, another important step in the interest of public safety was taken when a system of street lighting was ordered by the common council. This was in November 1761. Before that date the only ordinance dealing with this subject was one passed as far back as December 1697, which required that the occupant of "Every Seaventh house . . . in the Darke time of the Moon . . . [should] Cause A Lanthorne & Candle to be hung out on a Pole Every Night." [4] In time many citizens voluntarily suspended large lamps before their residences and shops in order that passers-by might detect any night prowlers trying to enter houses. But as these lights were not under the protection of the municipal authorities, mischievous persons delighted in breaking or otherwise molesting them.[5] We read in one account that "several of the

[1] *Gazette*, Feb. 21, 1757.
[2] *M. C. C.*, vol. vi, pp. 278-279.
[3] *Ibid.*, vol. v, p. 100.
[4] *Ibid.*, vol. ii, p. 23.
[5] *Col. Laws*, vol. iii, p. 855.

Glass-Lamps put up about this City, were taken down by persons unknown, and left whole in the Meal-Market altogether. It is thought to be done by some daring Rakes, in order to convince the Owners, how easy those Lamps might be demolished without Discovery." [1]

The first small beginning in the matter of illuminating streets at public expense was made in 1752, when the corporation ordered the purchase and erection of three lamps for lighting the entrances to the City Hall.[2] No system of general street illumination was attempted by the municipality until 1761, when application was made to the assembly for the privilege to levy a tax for the purchase of necessary supplies.[3] Permission was granted, and the lamps, a number of posts, and several barrels of oil were secured, and lamplighters were hired.[4]

After a committee of the common council had directed the locating and setting of the posts, the general care of the new street lamps was assigned to Isaac Stoutenburgh, overseer of the watch. He paid the lamplighters, purchased new lamps, wicks, oil, and other sundries. Stoutenburgh's method of settling accounts was very loose, for he submitted his bills for expenditures at very irregular intervals. Owing to this fact the common council finally made the overseer enter into a fixed contract to " undertake the Charge and expence of the said Lamps for one Year," at an allowance of £760 " for providing a sufficient quantity of Oyl for Lighting the said Lamps, paying the Lamp Lighters their wages, and furnishing them with Lamp wick and Candles, including his Trouble." [5]

[1] *Post-Boy*, Feb. 3, 1752.

[2] *M. C. C.*, vol. v, p. 358.

[3] *Ibid.*, vol. vi, p. 276.

[4] *Col. Laws*, vol. iv, pp. 573-576; *M. C. C.*, vol. vi, pp. 334, 343.

[5] *Ibid.*, vol. vi, pp. 211-212.

Despite large sums spent for the support of the lighting system, it was far from satisfactory, as the following complaint shows: "In the most dark and Stormy Nights, when Lamps are most Necessary, they are the latest and worst lighted, and sometimes not at all and particularly last Wednesday Night, when there was hardly any passing without Light, and there was scarce any Lamp lighted in the city." [1] Again, in answer to the query of a citizen as to "Why the public Lamps in this City have not been lighted for three Months past," the corporation pleaded that it was impossible to secure oil.[2]

The same provincial act which made provision for the lighting system included also an appropriation for a permanent force of watchmen. For the support of a system of street lighting and watching, between 1761 and 1775, the general assembly permitted the corporation to raise sums varying from £1,400 to £2,000 annually.[3] Out of these levies the common council hired persons for the task of guarding the city and of cleaning, lighting, and extinguishing the lamps. The board, in 1774, employed sixteen regular watchmen at a salary of £32 per annum to be on duty every night, and eight others at £16 for service on alternate nights.[4] Up to the time of the Revolution no important changes were made in the organization of the watch. Isaac Stoutenburgh was continued as overseer until his death in 1771, when he was succeeded by his brother Jacobus. The new overseer was given the services of an assistant, one Daniel Revaux, who was appointed captain of the watch. Thus after experiments with citizen guards and temporary watchers, the corporation finally established a paid force, fully organized with an overseer, captain, constables, and watchmen.

[1] *Mercury*, Feb. 7, 1763. [2] *Journal*, Oct. 8, 15, 1772.
[3] *Col. Laws*, vol. iv, pp. 573, 671, 970; vol. v, pp. 720-722.
[4] *M. C. C.*, vol. viii, pp. 15-16.

After thus examining the city's police organization, we find that it was generally inadequate to meet serious disturbances. When such occasions arose the common council had three means of supplementing the regular force. In the first place, a double watch might be ordered to deal with such minor disorders as were caused by riotous celebrations on Christmas and on New Year's Eve.[1] Ushering in the new year with a boisterous welcome is by no means a modern custom, for even in the colonial period we learn that "great Damages are frequently done on the Eve of the last Day of December, and on the first and second Days of January by Persons going from House to House with Guns and other Fire Arms, and being often intoxicated with Liquor."[2] Second, the watch might be reënforced by the city militia, as was done in order to suppress the riot resulting from an attack by a party of British soldiers upon the "New Gaol." The third means of strengthening the regular police was to call upon the garrison for aid. Thus, on one occasion, Lieutenant Governor Colden was notified that an attempt might be made to rescue two condemned criminals, John Higgins and John Anderson, for whom there was strong public sympathy.[3] Thereupon Colden ordered the Earl of Stirling, commander of the grenadiers stationed in the city, to place his men at the disposal of the civil authorities. The rights of the municipal officers were carefully respected by Colden, for we find him instructing the commanders of military forces to have "the strictest Regard herein to such orders as you shall receive from the Civil Magistrate attending for the Conservation of Peace." The show of military force apparently overawed all would-be rescuers, for both Higgins and Anderson were executed.[4]

[1] *M. C. C.*, vol. v, p. 141.

[2] *Col. Laws*, vol. v, pp. 532-533, March 8, 1773.

[3] Colden, *Letter Book*, vol. i, pp. 165-166.

[4] *Mercury*, Feb. 22, 1762.

CHAPTER VI

Fire Protection

The growth of urban population during the past two centuries has rendered the problems of fire prevention and fire extinguishing increasingly difficult. For the prevention of fire, municipal authorities have enacted ordinances regulating the storing of combustibles, and prescribing materials for building construction. For the extinguishing of fire, local governments have provided fire organizations, pumping engines and water-supply systems.

Before describing the methods used in colonial New York, it is well to consider the fire hazards which then existed in the city. One serious menace came from the storing of highly inflammable materials in the more densely populated wards. Large quantities of hay and of straw were always to be found in stables and in the military barracks. The traffic in naval stores also tended to increase fire risks. Such combustibles as pitch, tar, resin and turpentine were being constantly sent from the northern forests to New York city, there to await shipment to England.[1] Gunpowder was often carelessly stored in various parts of the town. The danger arising from this practice was better appreciated after a fire which occurred in January 1772, when a building containing quantities of this material narrowly

[1] Petition, dated Nov. 1755, for liberty to build a storehouse for naval stores, in filed papers, city clerk's office.

escaped catching fire from an adjoining structure.[1] The lives of hundreds of spectators were thus endangered.

The fire hazard arising from the storing of combustibles was intensified by congestion of buildings on the lower part of Manhattan Island. The size of the city may be judged from the statement that in 1749 it included 1834 structures of which over 1700 were located below the present Duane Street.[2] Not only did the city, early in its history, earn the reputation of being a congested community, but it was also known for its high buildings. Peter Kalm noted that most houses were several stories high.[3] This in itself was regarded as a fire menace. The same applied to several tall church steeples, which were considered sources of danger in case of fire. When Trinity Church, for example, caught fire, the engines were unable to pump water to the roof of the edifice, to say nothing of the spire.[4]

Improvements in building material tended to minimize the danger from fire. In the construction of buildings, stone and brick in time came to replace wood. Several wooden buildings, including a few mills, were destroyed in 1737 by a fire which broke out in the house of John Roosevelt.[5] Because of the frequency of fires, fewer wooden structures were erected. By 1750, according to notes of Kalm, most of the houses were being constructed of brick.[6] The same writer, however, observed that the roofs were usually made of white fir or cedar

[1] *Journal*, Jan. 23, 1772.

[2] Manuscript written in copy of *Laws, Statutes, etc., of City of New York*, in N. Y. Pub. Library.

[3] Kalm, *Travels into North America*, vol. i, p. 249.

[4] *Gazette*, Feb. 26, 1750.

[5] *Journal*, Jan. 10, 1737.

[6] Kalm, *op. cit.*, p. 249.

shingles. When thoroughly dried through daily exposure to the sun, these frequently caught fire from sparks blown from fires nearby.[1]

Such were the fire hazards which perplexed both common council and provincial legislature, and led to the passing of acts relating to the storage of hay, straw, naval supplies and gunpowder, and to the regulating of materials used in building. After several fires caused by the ignition of hay racks, the common council passed a by-law regulating the storage of hay and straw.[2] Hereafter, no one was permitted to pile such materials in barracks, yards or gardens, but instead people were required to place them in closed buildings and away from any chimney, hearth or fireplace.

To reduce the number of fires caused by defective or dirty chimneys, the alderman and assistant of each ward appointed two chimney viewers who monthly inspected hearths within their district.[3] If, after being notified, an inhabitant failed to do the necessary sweeping. he was fined 3s; and if his chimney caught fire from such neglect he was compelled to pay 40s. This system of official inspectors or viewers apparently worked no better now than in the days of Dutch rule. The position was not eagerly sought after, especially since the inspector was fined 6s for each failure to perform his duty. Therefore, to keep the office filled, the common council laid a fine of 40s. upon anyone refusing appointment.

Occasionally judicial notice was taken of offenses against the chimney-sweeping ordinance. In February 1766, the grand jury found a true bill against one Peter

[1] *Post-Boy*, Sept. 11, Oct. 2, 1749.

[2] *M. C. C.*, vol. vi, p. 116.

[3] *Ibid.*, vol. iv, p. 82.

Mesier for having a chimney so small and so dirty that it often caught fire.[1] The chimney was considered to be a public nuisance and was ordered removed. However, violations such as those cited above were seldom punished, and fires caused by unswept chimneys continued to occur. To remedy this dangerous condition, the common council appointed a collector of fines, and empowered him to bring suit in his own name against offenders. Hearings in such cases were held before the mayor, recorder, or any one of the aldermen, and fines which they imposed were applied to the purchase of supplies for the municipal fire department.[2] This ordinance was still in force in 1773 when the common council appointed a new collector.[3]

The province, also, enacted legislation regarding fire prevention. It ordered pitch, resin, and turpentine transferred to a storehouse established by the corporation.[4] In 1761, the provincial legislature passed an act which aroused strong opposition in New York city. This statute ordered all new buildings erected south of Fresh Water Pond after January 1, 1766, to be constructed of stone or of brick, and roofed with slate or with tile.[5] The same roofing materials were to be used in repairing old houses. There was only slight objection to the clause of the act requiring brick or stone, as these were already in common use, but vigorous protest was made against the order calling for tile or slate roofs.[6] New York citizens succeeded in having the operation of

[1] Filed papers, city clerk's office. See also *Minutes of General Sessions*, Feb. 9, 1744, Feb. 3, 1748.

[2] *M. C. C.*, vol. vii, pp. 330-331.

[3] *Ibid.*, p. 409.

[4] *Col. Laws*, vol. iv, p. 573.

[5] *Ibid.*, pp. 571-573.

[6] *Manual* (1850), pp. 427-428.

the act postponed until 1775, when the legislature passed it again, together with several amendments.[1] In a vain effort to defeat the bill about 3000 owners of property in the city presented Governor William Tryon with a petition setting forth the difficulty of securing slate or tile. The outbreak of hostilities in the following year effectively checked the operation of the law.

An important step in improving means of extinguishing fires was taken by the common council in May 1731, when it ordered its first fire engines from England. To pay for the purchase and shipment of these, the provincial legislature authorized the corporation to raise the money through a direct property tax on the estates of the city's inhabitants.[2] Provided in this manner with the necessary funds, a committee of the common council negotiated with two merchants for the purchase of "Mr. Newshams New Invention of the fourth and sixth Sizes with suctions, Leathern Pipes and Caps and Other Materialls."[3] Before the close of the year, the city's first fire engines had arrived from London on the ship "Beaver" and were housed in a room of the City Hall.[4] The engine of that day was an oblong affair and rather small.[5] It was placed on heavy metal wheels and drawn by hand. Water was poured into the forward end by the bucket men, and on each side several men worked a

[1] *Col. Laws*, vol. iv, pp. 869, 1046-1048; v, pp. 743-746.

[2] *Ibid.*, vol. ii, pp. 645-648.

[3] *M. C. C.*, vol. iv, pp. 55, 56. The origin of the city's fire department is described in Sheldon, *The Story of the Volunteer Fire Department of the City of New York* (N. Y., 1882); also Costello, *Our Firemen* (N. Y. 1888), pp. 23-37.

[4] *M. C. C.*, vol. iv, p. 122.

[5] One of those early fire engines is in the possession of the Volunteer Firemen's Association of New York city.

handle which generated force sufficient to drive the water through a large pipe, by means of which the stream was played on the burning building.

In time additional engines were secured. In June 1741, John Moore was given £100 sterling with which to buy "as Large a fire Engine of the best make As that Sum" would purchase.[1] Moore in turn commissioned Baker Brothers to make the purchase. They struck a better bargain than was anticipated, having been able to secure two engines for the allotted sum.[2] In 1749 and again in 1758 the common council bought additional fire apparatus.[3] These were apparently the last ordered from abroad. For a number of years several inhabitants of the city had been busying themselves with models of fire engines, for as early as 1736 Jacobus Turk, a gunsmith, was given £10 by the corporation "to Enable him to go on with finishing A small fire Engine he is making for an Expiriment."[4] But it was not until after the Stamp Act troubles, when home manufactures were being studiously encouraged, that the first engine made in the colony was accepted by the common council. In 1772 a large engine was purchased from Captain Thomas Tiller, and another from one David Hunt, for £90.[5] A year later the corporation paid George Stanton for his services in constructing a fire engine for the West Ward.

When the corporation could boast of but two fire engines, the problem of housing them was solved by using

[1] *M. C. C.*, vol. v, p. 22.

[2] *Ibid.*, vol. v, p. 54.

[3] *Ibid.*, vol. v, p. 264; vi, pp. 137-138. By 1750 the city possessed six engines.—*Post-Boy*, Feb. 12, 1750.

[4] *M. C. C.*, vol. iv, p. 367.

[5] *Ibid.*, vol. vii, p. 366, 377, 463; viii, p. 13.

a room of the City Hall for the purpose.[1] Later a structure contiguous to the watchhouse on Broad Street was built for the new engines.[2] With the purchase of additional engines the common council, at very little expense, ordered the construction of sheds.[3] One building of moderate size was set up in Hanover Square to accommodate a large engine, fifty buckets and other apparatus.[4] The location of these engine houses depended upon the population of the neighborhood. At first only the thickly-settled wards possessed fire houses, but, not long after, in every ward a structure for housing the engine, hose, buckets, ladders and firemen's caps was built. Also, an engine and fifty buckets were kept at the workhouse for the protection of buildings such as the City Hall, the prisons and the barracks.[5] Another was stationed at the ferry in Brooklyn to prevent the occurrence of a fire similar to that of 1746, when the corporation sustained a heavy loss through the destruction of the ferry house.[6]

Part of the burden of caring for fire apparatus was borne by the inhabitants, who were obliged to keep a certain number of fire buckets in their houses.[7] A private householder was required to have one or two, according to the number of fire places in his house; a baker, three; and a brewer, six. Tenants were expected to procure the pails at the expense of the landlord. After a fire, buckets which had been in use were to be returned to their rightful owners, or, if not properly labeled, were to be delivered to the marshal at the City Hall. For

[1] *M. C. C.*, vol. iv, p. 122.
[2] *Ibid.*, p. 319.
[3] *Ibid.*, vol. v, p. 255; vi, p. 6.
[4] *Ibid.*, vol. v, p. 288, 300, 317.
[5] *Ibid.*, vol. vi, p. 122.
[6] *Ibid.*, vol. vii, p. 3.
[7] *Ibid.*, vol. iv, pp. 82-83.

withholding a bucket, a fine of 10s was imposed. In time the city provided each ward with a considerable number of pails labeled in such manner that they could easily be identified as municipal property.[1]

The fire engines were cared for and repaired by an overseer. After the creation of this position in 1733, the first to hold it was Anthony Lamb, who received for this service £3 quarterly.[2] In 1736 Lamb was succeeded by Jacobus Turk, who agreed to clean and repair the engines at an annual salary of £10, all material for repairing to be purchased at the expense of the corporation.[3] As the number of engines increased, Turk's salary likewise rose, first to £16, and later to £24.[4] Turk continued in this capacity until 1761, when he was succeeded by Jacobus Stoutenburgh.[5] The new incumbent, like his predecessor, was a gunsmith and so had mechanical experience. The duties of the two overseers who preceded Stoutenburgh, had been comparatively slight, but in his time the position assumed considerable importance. Accordingly, Stoutenburgh became known as "fire-engineer," and his salary was raised.

An organized force of firemen for New York city was first authorized in 1737, when, upon the petition of the common council, the provincial legislature passed an act empowering the corporation to appoint a number of "Strong able Discreet honest and Sober Men . . . to have the Care management working and useing the said ffire Engines and the other Tools and Instruments for Extinguishing of ffires."[6] The ward was used as a basis

[1] *M. C. C.*, vol. v, p. 264. [2] *Ibid.*, vol. iv, p. 175.
[3] *Ibid.*, p. 367. [4] *Ibid.*, vol. v, pp. 55, 454. [5] *Ibid.*, vol. vi, p. 255.
[6] *Col. Laws*, vol. ii, pp. 1064-1067. See also manuscript entitled "Incidents in the History of the Volunteer Fire Department in the City of New York," in Library of N. Y. Hist. Society.

for grouping the firemen in squads. Under this act, thirty were appointed in September 1738, making five for each ward, except the Out Ward, which had no fire company until 1772.[1] With the purchase of new fire engines in 1741, fourteen additional firemen were chosen, thus permitting about seven for each of the six wards.[2] The number was increased by subsequent acts of the legislature; so by 1772 the city was protected by a force of 163 members, divided into eleven companies, each commanded by a foreman.[3] The whole department was under the administration of Stoutenburgh, the fire chief, assisted by three engineers.

Along with the power of appointing firemen, the common council also possessed the right to discharge them, and frequently exercised this power. Such action was taken against John Dunscomb for "Contemptuously refusing to do his duty in attending the fire which happened Last thursday . . . after he was Ordered so to do by some of the Magistrates."[4] Again, Benjamin Ogden was removed by the common council, in response to a petition of the members of St. George's Square fire company, on the ground that his conduct was objectionable to his fellow firemen.[5]

The duties of the municipal firemen were similar to those of rural volunteers of the present day. At the ringing of the alarm bell at the City Hall, the men ran to the fire houses, hauled the engines to the fire and operated them under the direction of the city magistrates, the high sheriff or the overseer.[6] Provision was

[1] *M. C. C.*, vol. iv, pp. 436-438; vii, p. 387.
[2] *Ibid.*, vol. v, p. 43.
[3] *Ibid.*, vol. vii, pp. 385-387.
[4] *Ibid.*, vol. v, p. 215.
[5] *Ibid.*, vol. vii, p. 438.
[6] *Ibid.*, vol. iv, pp. 438-440.

also made by the Common Council for having fire drills "for preserving the Said fire Engines from decay." Absence from duty without reasonable cause was punished by a fine of 12s for every fire, and 6s for every drill. The city gave persons no pay for fire duty, except when they performed exceptionally daring acts. For example, on a cold, windy day in January 1747, the City Hall caught fire, and, according to an account in the *Post-Boy*, Francis Dawson opened the roof with an axe, directly over the fire.[1] The engines at the same time played water upon him, so that by the time the fire was out he was clothed with ice. For this work the common council voted Dawson £7, and presented him with the freedom of the city.[2]

Though serving without remuneration, firemen derived advantage through exemption from certain civic responsibilities. They were relieved from duty as constables, surveyors of highways, and jurymen, and could be summoned for military service only in time of extreme public danger.

Water for extinguishing fires was drawn mainly from town wells. For a long time buckets fastened on ropes or suspended from balance poles were used; but as early as 1741, pumps were ordered for the city.[3] Originally wells were six feet in diameter, but those made in later years were usually eight feet wide.[4] Wells might be constructed only after application to the common council. This step would be taken by residents on a street, by having their alderman present a petition to the common council. This body usually allowed £8 for each

[1] *Post-Boy*, Jan. 19, 1747.

[2] *M. C. C.*, vol. v, p. 190.

[3] *Col. Laws*, vol. iii, pp. 181-184; *Manual* (1862), pp. 554-555.

[4] *M. C. C., op. cit.* vol. v, p. 445.

new well, although larger contributions are mentioned in the minutes. The remainder of the expense was borne by the inhabitants using the well; and, as the building of one was a costly undertaking, this was by far the larger part.

The repair of the town wells was regulated by several provincial acts. The first of these, passed in 1741, placed the maintenance of wells in the hands of the alderman and assistant of each ward.[1] They were authorized to install pumps wherever it was deemed necessary, to designate the number of residents for each well, and to assign an overseer in each district having a well. All repairs were paid by the overseers who submitted their accounts to the aldermen of their respective wards. All expenditures were met by the inhabitants of each neighborhood in the form of a special property tax collected by the overseer, who was allowed 1s for every pound he collected. Malicious practices, such as cutting well ropes and breaking pump handles, were dealt with in the same act, a fine of 40s being imposed for each offense. In 1753 another act of the legislature altered this plan.[2] According to the new law, instead of each alderman appointing overseers for his own ward, the common council annually nominated all of them. Besides being empowered to examine, clean and repair wells, each overseer was instructed to compensate anyone whose leather buckets were burnt, lost or destroyed in the course of a fire. To meet these expenses, an annual tax was added to the poor rate. This at first was limited to £120, but by later statute £200 was allowed.[3]

It was quite difficult to secure good drinking water

[1] *Col. Laws*, vol. iii, pp. 181-184, 400.
[2] *Ibid.*, vol. iv, pp. 944-945.
[3] *Ibid.*, pp. 942-947.

in the city. As the shore along the East River was low, brine penetrated underground and swamps were often formed, thus rendering the water very brackish.[1] Drinking water was available either from town wells or from private pumps; but, writes Peter Kalm, only "those who are less delicate in this point make use of the water from the wells in town."[2] Private pumps therefore were essential in order to secure good water, and the privilege of using them generally went with the sale of property, as is shown by an advertisement offering for sale a house of "two Tenements, and the Half the right of a Pump in the Yard."[3]

Toward the end of the colonial period, the common council conceived an ambitious plan for supplying water. A reservoir with a pumping plant and a conduit system was proposed capable of carrying a sufficient quantity of good water through the streets. In July 1774, Augustus and Frederick Van Cortlandt offered the corporation for this purpose their property on Great George Street, now Broadway above Chambers Street, at £600 per acre.[4] The common council agreed to purchase the northerly part at this price, "provided that upon Sinking a Well there, the Water shall be found of a good Quality."[5] As investigation indicated that the water was satisfactory, the corporation paid £1050 for the land. The work of excavation was promptly begun under the direction of a committee of the common council and an engineer named Christopher Colles. He was to receive £10 a

[1] *American Medical and Philosophical Register*, vol. i, p. 308.

[2] Kalm, *op. cit.*, p. 252.

[3] *Post-Boy*, Nov. 30, 1747.

[4] *M. C. C.*, vol. viii, p. 40. See also, Wegman, *Water-Supply of the City of New York* (N. Y., 1896), pp. 4-5.

[5] *M. C. C.*, vol. viii, pp. 43.

month for superintending the actual construction, while the committee of the common council was to make contracts, purchase materials and audit accounts. After the Revolution, Colles claimed that he had not received the sum of £450 which was due him for his services and for money advanced by him.[1]

In time, a spacious reservoir with a capacity of 20,000 hogsheads was erected at what is now the east side of Broadway, between Pearl and White Streets.[2] It was completely covered, for it was then believed that the rays of the sun had an injurious effect upon drinking water.

Having constructed a storage reservoir, it was then necessary to provide for a steady supply of water and for a suitable means of distributing it. The first problem was solved by digging a well thirty feet in diameter near the Collect Pond, where the "Tombs" now stands, between the present Pearl and White Streets. From this well, water was pumped into the reservoir by a steam engine which had the power of raising two hundred gallons, fifty-two feet per minute. The cylinder for this engine was cast in a local shop and was said to have been the first of its kind ever attempted in America.[3] This was indeed an indication that England's plan to suppress the metal industry in the colonies was doomed to failure.

It was planned to distribute the water through hollow logs laid through about fourteen miles of the principal streets. It was also intended to construct these pipes so as to offer quick communication with the fire engines, and to furnish a speedy and plentiful supply of water when-

[1] Petition of Colles in filed papers, city clerk's office.

[2] *Manual* (1856), p. 432.

[3] *Gazette*, Feb. 20, 1775; *Mag. of Am. Hist.*, vol. xiv, p. 315.

ever the need might arise.[1] It appears that these water works, including the reservoir and the pumping system, were completed, for we learn that they were placed under the care of Christopher Colles. But, owing to the outbreak of the Revolution, the conduit system was not built. The corporation, however, expended £1250 for over 70,000 feet of pitch pine timber, which was ordered shipped from Albany County.[2]

We see from this survey that the city was compelled to enter upon extensive projects in order to supply water both for extinguishing fires and for drinking purposes. It is probably fair to assume that the citizens at the time of the Revolution were drinking reasonably pure water. The provisions for safeguarding against fires proved generally adequate. In 1741 a serious fire destroyed the buildings of the provincial government, and the department was given a chance to show its ability to deal with a large conflagration. Aside from this, there was no menacing outbreak until 1776. In that year a great fire occurred, but as the civil government had been disrupted, owing to military operations, the municipal firemen had no opportunity to demonstrate their ability.

[1] *Gazette*, Aug. 1, 1774.

[2] *M. C. C.*, vol. viii, pp. 62-63.

CHAPTER VII

Regulation of Public Land and Streets

Previous pages have shown the activities of the municipality of New York in administering such functions as charities and correction, also its police and its fire protection. In the remainder of the work the corporation of New York will be regarded generally as an owner of revenue bearing property.[1] In this chapter an attempt will be made to explain such phases of the municipal land system as the boundaries of the city, its riparian rights, its title to the interior of Manhattan Island, and such property improvements as docks, bridges, roads and parks.[2]

The boundaries of New York city and of New York County have seldom been coterminous. Today the territorial extent of the former is greater than that of the latter. In the colonial period, the situation was just the reverse. The jurisdiction of the county of New York then was more extensive than that of the city. According to an act which the provincial legislature passed in 1691, the city and county of New York embraced all the islands in the Hudson and the East River, in addition to Manhattan.[3] The last mentioned alone was called New York city. Later, in 1731, the Montgomerie Charter

[1] *Col. Laws*, vol. ii, p. 596. See also Britton *vs.* Mayor of New York, 21 Howard, pp. 252-253.

[2] For topographical details, see Stokes, *Iconography of Manhattan Island, op. cit., passim.*

[3] Hoffman, *Treatise on the Corporation*, p. 79.

extended the jurisdiction of New York city, not only to embrace the surrounding islands, but also to include certain rights on portions of the shores opposite Manhattan.[1] Naturally this extension brought with it direct relations with the province of New Jersey on the west, with the county of Westchester on the north, and with that of Kings on the east. The first, being an inter-provincial matter, is foreign to our review of municipal affairs; the second will be discussed in relation to the subject of bridges across the Harlem River; the third will be described in the following chapter in connection with the establishment of the Brooklyn ferry.

Let us first consider the internal divisions of New York. In 1731 the city was divided anew into seven wards, the additional one being named in honor of Governor Montgomerie.[2] The lower end of Manhattan Island was known as the South Ward and was inhabited mainly by soldiers and by the officers of the provincial government. Under British rule, it will be remembered, the legislature held its sessions in New York city, then the capital of the province. To the east, embracing a strip of shore along the East River, was the Dock Ward. In this district the population included many sailors and longshoremen. The rest of lower Manhattan fronting on the East River, directly above the Dock Ward, was divided into the East and the Montgomerie Wards. William Street, running more or less parallel to the Hudson River, separated these two districts from the North Ward. The southern boundary of this section was Wall Street, on which thoroughfare stood several buildings of the municipal government. Adjoining the North Ward and extending to the Hudson was the West

[1] *Col. Laws*, vol. ii, p. 599.

[2] *Ibid.*, pp. 600-602.

Ward. Within this ward were the king's farm and other lands of Trinity Church. Upper Manhattan was known as the Out Ward, comprising the Bowery and Harlem divisions.

As a result of these definite ward divisions, two and only two boundary controversies arose. Both were concerned with the limits of the Out Ward. In one case a rivulet, running from Fresh Water Pond and emptying into the East River, had been the dividing line between the Montgomerie and the Out Wards. When this stream was filled up complications arose, but they were satisfactorily settled through an act of the legislature defining the boundary.[1]

Far more serious was the dispute between the corporation of New York and the town of Harlem. The political relations between the communities, both located on Manhattan Island, are nowhere clearly defined. It appears that Harlem, together with the Bowery division, formed the Out Ward of New York city. Although both divisions were represented in the common council by the same alderman and common councilman, each had its separate local tax collectors, assessors, and constables. In addition Harlem had a board of trustees.[2] This political arrangement worked without much friction, but the same cannot be said about the relations between the two localities regarding their boundary line. This controversy continued over a long period of time. In 1736 a division line was run.[3] With a view to settling their differences, the Harlem trustees gave the common council the privilege of running a partition line through the disputed territory.[4] After surveyors and chainbearers

[1] *Col. Laws*, vol. v, pp. 609-610.
[2] *M. C. C.*, vol. v, p. 298.
[3] *Ibid.*, vol. iv, p. 316.
[4] *Ibid.*, vol. v, p. 280.

had performed the field work and submitted their report, a conference of the two official bodies was held, in an effort to settle their difficulties without resort to the courts. Then followed wearisome negotiations, covering a period of over twelve months. Even this prolonged parleying was apparently fruitless, for both sides prepared to enter into litigation.[1] The New York corporation entrusted the defense of its title to Messrs. Abraham Lodge and Joseph Murray, the latter of whom was long the acknowledged leader of the New York bar. Before the case could come to court, the Harlem trustees offered to reopen private negotiations. This proposal was acceptable to the corporation, and an interchange of views on the boundary issues again ensued. For fully twenty years longer this contest continued. Yet it was not without advantage to the corporation, for in 1771, Thomas Jones, recorder of the city, held a conference with several Harlem inhabitants who claimed sections of the New York "Commons," as the land in dispute was known.[2] The recorder was successful in inducing three of the residents to surrender all title to this property in exchange for a lease from the corporation. Against the more stubborn claimants, the city brought suit for ejectment.

This tedious boundary tangle was brought nearer to settlement by referring the matter to arbitration, at the suggestion of Harlem, and an act creating an arbitration board was secured from the provincial legislature.[3] So important did the common council regard this matter, that at times as many as ten of its members attended the meetings of the commission.[4] Unfortunately their solici-

[1] *M. C. C.*, vol. v, pp. 339-340, 345. [2] *Ibid.*, vol. vii, pp. 272-275, 343-344.
[3] *Col. Laws*, vol. v, pp. 432-437. [4] *M. C. C.*, vol. viii, p. 4.

tude was not rewarded, for a decision adverse to the corporation was rendered by the arbitration board. Where formerly Harlem had claimed but an indeterminate commonage, it now received a clear title to a triangular tract of 290 acres south of its former boundary line. Hereafter the city of New York and the town of Harlem were divided by a line running diagonally across Manhattan Island.[1] It began on the east side at what is now Seventy-fourth Street, crossed Second Avenue at what is now Seventy-ninth Street, and Third Avenue at Eighty-first Street, and reached the Hudson River at the present One hundred and twenty-ninth Street. This award was indeed a serious abridgment of the corporate claims of the city.

One peculiar restriction was placed upon the power of the corporation to hold property by a section of the charter which declared that at no time should the corporation hold lands exceeding a clear annual rental of over £3000 sterling.[2] But, according to Chancellor Kent this restriction was inconsequential, because it applied only to the valuation of the municipal real estate at the time of the granting of the charter in 1731.[3] In that year the total revenue of the corporation amounted to less than £400, but Kent holds that no subsequent advance in the value of the property could affect the title of the corporation to it. The corporation's power of alienating any parcel of its property was vested in the common council. It exercised that function immediately after the granting of the charter. In fact, the corporation was brought to the point of parting with some

[1] *Col. Laws*, vol. v, pp. 841-844. Gerard, *Treatise on the Title of the Corporation and Others to the Streets, Wharves, Piers, Parks, Ferries, etc.* (N. Y., 1872), p. 77.

[2] *Col. Laws*, vol. ii, p. 631. [3] Kent, *Charter of N. Y.*, pp. 266-267.

of its valuable real estate as a result, probably, of bestowing £1,000 upon Governor Montgomerie in appreciation of his grant of the charter. This sum was raised by mortgaging seven lots which comprised two blocks between Moore and Whitehall, Pearl, Water and Front Streets.[1] This mortgage was paid off astonishingly soon when, within a year, the lots were sold at auction for £1344.[2] This sale marked the end of the policy of disposing of city property by the sale of the fee. Thereafter in the colonial period no land was fully conveyed by the city for cash payment, but, instead, an annual rental fee was demanded of all purchasers of water lots.

The real estate which the corporation sold may be classed either as upland or as shore property. After 1732 all inland lots were uniformly offered at an annual rental and for a specified term of years. This is seen in the case of the letting of a house and nineteen acres west of the Sawkill Bridge, in 1737, to one Nathan Macguire at a yearly rental of forty shillings, for a term of twenty-one years.[3] At times the corporation tried energetically to promote its surburban property by offering large parcels of land for rental. In 1762, land east of the highway to Kingsbridge was marked off into lots by the city surveyor and offered at £4 annual rental, for a term of twenty-one years.[4] In the following year thirty-one lots in what is now the Murray Hill district were staked off into five-acre parcels, and the corporation was successful in leasing the greater part of them.[5]

To this plan of leasing its inland property for a *definite* term of years, the common council made but few

[1] Black, *History of Municipal Ownership of Land on Manhattan Island* (N. Y., 1891), p. 27.

[2] *M. C. C.*, vol. iv, pp. 134-135.

[3] *Ibid.*, p. 420.

[4] *Ibid.*, vol. vi, pp. 287-288.

[5] *Ibid.*, pp. 333, 364.

exceptions. One case was the transfer of ten acres of swamp land, which included what are now the blocks between Eighteenth and Twentieth Streets on Broadway. In 1745 this property was granted forever to Admiral Sir Peter Warren at an annual rental of £4, in recognition of his services against the enemies of the kingdom. In this case the common council apparently deemed it pardonable to deviate from its usual policy.[1] Another departure was made in 1766, when the Reformed Protestant Dutch Church was given a perpetual lease to a piece of land to be used as a burial ground.[2] Nor was this the only church to receive so special a favor from the common council. In the same year the Presbyterian congregation, calling attention to a gift of land which Trinity corporation had previously received as a burial ground, petitioned for a grant of the land between Beekman Street, the Post Road and Nassau Street.[3] The common council acquiesced and gave the petitioners a perpetual lease of this land, on which stood for years the first Brick Presbyterian Church.

Two large tracts of swamp land on Manhattan Island were granted to New York citizens within the period now in review. The most extensive transfer was the grant of seventy acres to Alderman Anthony Rutgers. This enterprising city father obtained a patent from the home government in 1730, on condition that he drain the territory in question.[4] In 1734 Jacobus Roosevelt bought from the city for a sum of £200, which included £100 already paid for ten lots, a plot of four and one-half acres, known as Beekman's swamp.[5] This district in later years became the centre of the leather industry, a connection that has lasted to the present day.

[1] *M. C. C.*, vol. v, pp. 144, 148.
[2] *Ibid.*, vol. vii, pp. 4, 130.
[3] *Ibid.*, pp. 8-12.
[4] *Col. Docs.*, vol. v, pp. 914, 918.
[5] *M. C. C.*, vol. iv, p. 211.

Besides these lands, the other kind of municipal real estate was the shore property commonly known as "water lots," comprised in a strip of land extending from low water mark to a distance of 400 feet under the river.[1] It will be remembered that the common council, in its petition for a new charter, had asked that its rights to the waters around lower Manhattan might be enlarged. This request was granted, the crown not alone giving the city in fee the land between high and low water mark, but also augmenting its territory to include that lying under water to a line 400 feet beyond low water mark. This line was to extend along the Hudson River from a point south of Bestaver's Kill and on the East River south of Corlaer's Hook, but not to include the Battery at the southern apex of Manhattan Island.[2] In locating this grant on the present map of New York city, we find that it extended around the lower business section from a point on the North River near the foot of Charlton Street to the southerly side of Marketfield street, passing over Battery Place and recommencing at Whitehall Street on the East River, and thence continuing to a point near Houston Street.

These riparian rights of the corporation have been the cause of considerable litigation. In early years the city had difficulties with individuals desiring to build docks or to operate ferries. A century later these rights came into consideration when railroads became eager to secure freight depots and ferry communication with their terminals on the opposite shore, and when steamship lines manifested a desire to extend their piers for the accommodation of giant transatlantic liners. It should be borne in mind that there were three boundaries: high-

[1] *Gerard*, op. cit., p. 73, 83.

[2] *Col. Laws*, vol. ii, p. 600; Hoffman, *op. cit.*, p. 186.

water mark, low-water mark, and the 400-foot line. It should also be remembered that any grant made by the corporation prior to 1731 could have extended only to low-water mark, because the territory of the municipality did not extend beyond that line before the granting of the Montgomerie Charter.

When the owners of shore properties came to realize the significance of the newly acquired grants to the city, they became eager to purchase from the city the water lots that lay in front of their own property and thereby acquire that 400-foot territory. Many persons, anticipating the commercial growth of the city, sought to secure the water lots for docks and ferry landings.

As the common council was vested absolutely with the power of alienating such property of the corporation, all requests for water lots were directed to this body.[1]

Upon the receipt of a petition, it was referred to a committee of the common council. Three different recommendations were possible: to grant it, to deny it, or to "pigeonhole" it. Unfortunately the members of the common council, at that time, with utter disregard for the future, permitted these rich riparian rights to pass into the hands of a number of private individuals. In return for a paltry quit-rent, valuable water lots would be lost to the corporation forever. How greatly these properties increased in value in after years, when sites for ferry landings, railroad terminals and piers were sought, it is impossible to estimate. After the Revolutionary period the municipality awoke, only to find that much of its riparian land had been deeded away to private persons.

These transfers were not only shortsighted, but at

[1] *M. C. C., op. cit., passim.*

times even scandalous, for individual magistrates were often questionably involved in the transactions. The *Minutes of the Common Council* themselves are evidence of the fact that no member of this body ever petitioned for a water lot in vain. The same cannot be said of similar requests from citizens in general. Though it is true that a number of grants were made to officers of the provincial government and other prominent citizens, petitions were often quietly pigeonholed or summarily rejected. This palpable discrimination in awarding municipal lands provoked considerable criticism at the time. The *Independent Reflector* contains a scathing letter which states that the terms proposed in certain petitions for water lots were being denounced in all the coffee houses of the city.[1] One newspaper contributor, "Agricola," defends the petitions on the ground that the corporation had always granted water lots on terms agreed upon, between itself and the petitioner, and not at public vendue. The first writer answers this statement by declaring that even if preceding aldermen had done wrong, it was no excuse for the present incumbents to imitate their example. He also holds that the municipality, like a private person, was entitled to profit through a rise in the value of the water lots.

Though the common council continued to part with its riparian rights, it did retain several valuable strips, on which docks and wharves were erected. Until the middle of the eighteenth century, the corporation took very little interest in the development of its own waterfront property. Long before 1731, the city had built the "Great Dock," at the foot of Broad Street. Although commerce was growing rapidly, the common

[1] *Independent Reflector*, Feb. 1, March 1, 1753.

council for many years did not construct a new dock, but merely repaired and enlarged the old one. Even in this work of restoration it was delinquent, for it ordered improvements on the Great Dock only after several merchants had privately paid for needed repairs.[1] Again, this same dock was continually deteriorating through damage by winter storms and tidal action; but little or nothing was done toward improvement prior to 1750. This condition was due to the policy of the common council in refusing to appropriate for repairing or for cleaning the dock a single farthing not derived from the dock as revenue.[2] In 1751 the Great Dock received a thorough overhauling, when the municipality purchased scows and removed sixty loads of mud surrounding it. The shortsightedness of the policy which the common council had been pursuing was demonstrated by the fact that, before 1750, the returns to the city from the dock never exceeded the sum of £100 in any year; while in 1754, after improvements had been completed, the annual revenue rose to £380. With the increase in profits of the dock, the common council was more willing to appropriate money for lengthening and widening it.

Next in importance to the Great Dock, the city possessed on the East River another structure known as the Albany Pier.[3] It was an addition to Coenties Slip, for we learn that in 1750 a committee of the common council was appointed to run out a pier on the west side of Coenties Slip, and a large amount of money was ap-

[1] *M. C. C.*, vol. iv, pp. 57-58.

[2] *Ibid.*, p. 456.

[3] Though the Albany Pier is first mentioned in the *Minutes* (vol. vii, p. 77) in 1767, it appears on the Marschalck plan of the City of New York in 1754. Stokes, *Iconography, op. cit.*, plate 34.

propriated for the purpose.[1] The work proved more expensive than had been anticipated, for the common council was obliged to contribute additional sums before it was completed.[2] As two small piers of the old wharf had been so poorly constructed that vessels occasionally slipped from their moorings, especially in stormy weather, they were dismantled and the material was used in constructing the new pier. In 1765 a number of merchants suggested that £1000 be spent in extending the pier two hundred feet further into the river.[3] The corporation accepted the advice in part, but allowed only a small sum for the work.

On the North River the corporation did not possess a dock of importance until 1771, as the merchants of the city confined their warehouses to the East River. How the trend of shipping activities has changed! In colonial days business interests favored the East River rather than the Hudson, for the former was more sheltered from storms and from the wash of the tide, and also offered easy access to New England ports by the way of Long Island Sound. At present, the East River is used merely by local steamship lines, the transatlantic companies favoring the North River. It was not until just before the outbreak of the Revolution that a landing known as the "Corporation Dock" was completed.

Excepting the Great Dock, the Albany Pier and the Corporation Dock, all other wharves owned by the city were not worthy of the name, as they were nothing more than mere landings, used mainly by the small boats which brought food supplies to the municipal markets. In the Montgomerie Ward the corporation possessed

[1] *M. C. C.*, vol. v, p. 314.
[2] *Ibid.*, p. 371.
[3] *Ibid.*, vol. vi, pp. 410-411.

two slips, Beekman's and Burling's. In front of the Fly and the Coenties markets it had built two other landings; and it owned a fifth known as the "Old Slip." These wharves were so neglected by the common council that, on one occasion, they were condemned as public nuisances by the grand jury, and the city was compelled to expend a considerable sum toward renovating them.[1]

Though all these docks, piers and slips were municipal property, they were not operated by the city, but, as in the management of the ferries, were leased to the highest bidder. The arrangement between the lessees and the corporation was usually as follows. The rent was to be paid quarterly, was secured by a bond, and the city was not entitled to any of the profits arising from the use of the docks, as they belonged to the lessee.

Less clear were the arrangements regarding the maintenance of the docks. This work was divided between the two parties, the corporation was to make all necessary repairs, and the lessee was expected to keèp clear the wharves and their approaches.[2] However, the dockmaster usually neglected this duty and the entire work of maintaining the piers and docks finally devolved upon the corporation.

The dockmaster had several other duties to perform in addition to the collection of wharfage and cranage. As several vessels were frequently ready for unloading at the same time, he would assign berths for ships that were waiting. He was also expected to see that no fires were lighted between the hours of eight P. M. and daybreak on board vessels lying on the municipal docks, a regulation which no doubt caused hardship on cold nights.[3]

[1] *M. C. C.*, vol. v, pp. 113-114. [2] *Ibid.*, vol. iv, pp. 246-247.
[3] *Ibid.*, pp. 98, 170.

The dockmaster was also to warn captains of incoming vessels not to indulge in the ruinous practice of casting their anchors into municipal piers.

Such were the principles underlying the regulation of the public dock; a study of the actual supervision of the Great Dock shows that the rules were not strictly followed in actual practice. Andrew Law was the dockmaster after the granting of the Montgomerie Charter. In 1735 he secured the dock privileges, as highest bidder, for £83 10s, at an auction held in the tavern of Obadiah Hunt, who went security as Law's bondsman to the extent of £260.[1]

Law's three-year tenure was replete with difficulties, of which litigation was the chief one. The dockmaster claimed that a certain wharf between Wall Street and "Burnett's Key" was regarded in the terms of his lease as a municipal slip. Supported by the corporation, Law insisted upon his right to collect dock money from vessels lying at this wharf.[2] In asserting his claim, Law was opposed by one Thomas Barnes, and a suit followed before the courts. The case of Law *vs.* Barnes was first heard before the mayor's court, but, upon the suggestion of the justices, it was transferred to the supreme court of the province.[3]

Financial troubles as well as legal difficulties also disturbed the peace of mind of Dockmaster Law. Before he had been in charge a year, he was far in arrears in rent, and was threatened with prosecution by the corporation. However, the common council may have felt that the dockmaster was sufficiently plagued with the suit mentioned above, for the threat was apparently not

[1] *M. C. C.*, vol. iv, p. 248. [2] *Ibid.*, p. 314.

[3] *Ibid.*, pp. 409-410. The *Minutes of the Supreme Court* do not disclose the final disposition of this case.

executed. But at the expiration of his lease in 1738, Law was hopelessly in arrears, and when he died, in the following year, his goods and chattels were attached by the corporation.[1]

In 1738 the corporation again advertised the dock privileges at auction, this time at the inn of William English.[2] Some of the members of the common council were present at the sale, which was rendered more interesting by their partaking of the hospitality of the tavern at the expense of the city. The bidding was low, due probably to the misfortunes of the previous lessee; and the dock rights were finally "sold" to Abraham Elbertse for £61.

As the lease was for only a year, the dock was again auctioned in 1739. This time it went to Samuel Richards at the higher rental of £85.[3] A bond of £160 for the performance of the covenant was executed by Bartholomew Skaats, who himself fell heir to the dock lease in 1740 at a rental of £73. For the next thirteen years Skaats regularly renewed his lease, at times without going through the formality of a public auction. The financial relations between this lessee and the corporation were quite satisfactory, for the dockmaster was prompt in renewing his bond and in paying his quarterly rent. It was he who removed the many scowloads of mud which had accumulated in the Great Dock and at adjoining wharves. As several new slips had been built near the markets, Skaats deemed it advisable also to secure the lease of all the public markets.

Skaats' last lease expired in 1753. By this time the dock rights had been considerably enhanced by the im-

[1] *M. C. C.*, vol. iv, pp. 358, 467.
[2] *Ibid.*, pp. 421, 434.
[3] *Ibid.*, p. 457.

provements on the Great Dock, and by the extension of Coenties Slip. Although Skaats had usually paid less than £100 rental, the docks and wharves now were leased in 1753 for £235 to Luke Roome.[1] He was followed in turn by Garret Cosine and by Adolph Brass, both of whom made high bids for the dock rights. They were not as desirable tenants as was former Dockmaster Skaats, who, although giving a smaller rental, always paid promptly. The same cannot be said of his successors. Roome fell far in arrears in his rent, while Cosine owed the corporation £255 and Brass £234, when their leases terminated. In addition, the lessees failed to clean the slips, and the city was forced to expend £60 for this work. Fortunately the next dock-master, John Griffith, proved more trustworthy, for his bid of £500 was regularly paid. Luke Roome, who had shown himself an inefficient dockmaster in 1753, outbid Griffith, in 1766, by offering £620. Again Roome was unable to fulfill his obligations, and he prayed for an abatement of the rent. John Griffith again took up the lease in 1771, in partnership with John Bingham. The next year, the latter secured the lease for himself and held it until the outbreak of the Revolution.

In many respects the administration of the public docks resembles that of the municipal ferries, as the city operated neither of these public utilities, but leased them for terms of years to private persons. But there was a wide difference in the matter of regulating the rates on the ferries and on the docks. The province, it will be shown in the following chapter, exercised the power of fixing the charges on the municipal ferries—a right which even the corporation conceded in its petition for the Montgomerie Charter, when it asked for the

[1] *M. C. C.*, vol. v, p. 396.

ferries, "with such fees as Shall be Regulated by Act of Assembly."[1] But no such phrase appears in the next prayer of the petition, asking for all the "Docks Slips and Wharfs with Craneage and Wharfeage & all Other Profits which may Accrue thereby." This statement was embodied in the Montgomeric Charter, without any qualifying clause as to the power of the province over the city's docks. In fact, the exclusive control of the municipality over this property was respected by the provincial government, for it did not pass any act regulating the public wharves between 1731 and 1776. It did enact several statutes fixing the rates to be charged at private docks on Manhattan, the first being in 1734, when a schedule was set for a private wharf named "Burnett's Key."[2] Later the act was renewed by the provincial legislature, and expanded to cover other private docks in the city.[3] In 1770 the law was again renewed, and, with a slight amendment the following year, it continued in force until the end of the colonial period. All of these statutes definitely stated that no provision was to apply to docks or wharves belonging to the corporation of New York.

The common council, therefore, possessed exclusive power to determine the rates on municipal docks, a right which it exercised in two ordinances, one passed in 1731, the other in 1759.[4] In 1759 two schedules of rates were drawn up by the common council, one for coasting vessels from the ports of New York, New Jersey and Connecticut, the other for ships coming from the remaining colonies—from New Hampshire through to North Carolina.

[1] *M. C. C.*, vol. iv, p. 20.
[2] *Col. Laws*, vol. ii, pp. 847-849.
[3] *Ibid.*, vol. iii, pp. 437-440; iv, pp. 23-27.
[4] *M. C. C.*, vol. iv, pp. 99-100; vol. vi, pp. 168-172.

Besides ferries and docks. another improvement of the waterfront was the erection of bridges. In this work the corporation took no part, for the Hudson and the East Rivers were too broad to be spanned, and the Harlem, which alone was narrow enough to be bridged, was so distant from lower Manhattan, that the municipality had no direct interest in its development. Private individuals, therefore, financed the construction of the first three bridges across the Harlem River. The earliest was erected by Colonel Frederick Philipse, at the northern end of the Kingsbridge Road; the second, by Jacob Dyckman, at a point further down the river; and the third, by Colonel Lewis Morris, Jr., at Morrisania.

Until 1759, Philipse's bridge offered the only means of traveling by land from Manhattan Island to Westchester County. About this time Colonel Philipse's monopoly was broken through the efforts of an enterprising person named Benjamin Palmer, who planned to erect a second bridge across the Harlem river.[1] He entered into partnership, first with Jacob Dyckman, blacksmith and tavernkeeper, who owned a farm on the Manhattan side of the Harlem river, and then with Thomas Vermillia, who possessed land directly opposite on the Westchester shore.[2] Having secured, as a site, land a little to the southeast of Kingsbridge, Palmer's next problem was to raise funds for building his proposed bridge. This was accomplished by collecting subscriptions from private individuals. Palmer's difficulties did not end here, for he now encountered the active opposition of Colonel Philipse, who did not relish the prospect of a new crossing in competition with his own

[1] Edsall, *History of the Township of Kings Bridge* (N. Y., 1887), p. 17.

[2] De Voe, *Market Book*, pp. 63-65.

toll-bridge. In his hostility, it is said, Philipse even went so far as to have Palmer drafted into the British service, but fortunately the latter was able to secure a substitute. All these difficulties were finally overcome, and the "Freebridge," as the new crossing was called, was opened to the public, with fitting celebration, on New Year's day, 1759, by hundreds of persons from Manhattan and Westchester.

Traveling was soon diverted from Philipse's bridge to the new structure. The chief reason for this change was that exorbitant tolls were charged on the former, while free passage was permitted on the latter. The free bridge offered another advantage, as it shortened the route from New York to Westchester by half a mile. The new bridge was also made more accessible for travelers by the construction of a new road, joining the bridge with the Albany and the Boston roads. Four months after the opening of the new bridge so little traffic passed over Philipse's crossing that his bridge tender abandoned his lease and the Colonel was compelled to advertise in the *Gazette* for a new tenant.[1] By 1771 the bridge had become dilapidated, and the common council ordered its committee on roads to "confer with the Mayor of West Chester" concerning the repair of the structure.[2]

The next step in the process of spanning the Harlem was taken in 1774, when Colonel Lewis Morris, Jr., applied to the common council for permission to erect a new bridge.[3] In his petition he pointed out that the existing post road through Eastchester was inconvenient for travelers, as it was indirect and led over steep hills.

[1] *Gazette*, April 9, 1759.

[2] *M. C. C.*, vol. vii, p. 313.

[3] *Ibid.*, vol. viii, pp. 7-8.

To relieve these conditions, Morris and several of his neighbors agreed, not only to construct a bridge over the Harlem, but also to lay out in Morrisania a road which would be of a more nearly level grade, and shorter by over four miles than the former highway to Eastchester. The common council granted permission to erect the bridge, with the provision that it be devoted to the use of the public and not to private gain. The provincial legislature also gave its consent, but on condition "That in such Bridge there shall be three or more Apertures of at least twenty-five Feet each, for the Convenience of navigating the said River by Small Boats: And the said Bridge when so built shall be and is hereby declared to be a free and public Highway."[1]

Although the corporation of New York took no hand in the building of bridges, its jurisdiction over such improvements was apparently accepted. Morris recognized this fact, for in his petition he admits that he would not be permitted to build his bridge without the consent of the common council.[2] The Montgomerie Charter also confirmed the power of the city to establish "water courses and bridges."[3]

Concerning the land system of the city, the following information has thus far been given: its limits have been indicated; the legal capacity of the corporation of the city of New York for holding property has been explained; its interior lands, its water lots, such waterfront improvements as docks and bridges have been considered. It remains to note what steps were taken to develop the interior of Manhattan Island, especially in regard to the maintenance of roadways.

[1] *Col. Laws*, vol. v, pp. 708-709.

[2] *M. C. C.*, vol. viii, p. 8.

[3] *Col. Laws*, vol. ii, p. 613.

The legal rights of the corporation over public thoroughfares within the city were definitely established in various acts of the provincial government. Through the Montgomerie Charter, the municipality was given full power to lay out streets, lanes, alleys, and highways, a grant which few other local governmental units in the colonies ever received.[1] In some respects, however, the authority of the corporation over the streets was limited. In laying out new thoroughfares, for example, the city was forbidden to take any person's property without his or her consent. In case of consent the owner was reimbursed by the payment of a reasonable compensation assessed by a jury.[2] The power of the common council over urban roads was further defined in five provincial acts, all passed after the granting of the Montgomerie Charter. The purpose of these statutes was not to alter the general charter rights of the corporation, but rather to give specific direction or added sanction to the common council in the exercise of its powers. This "interference" on the part of the province, in the rights of the city over its streets, is regarded as proper by Chancellor Kent, who points out that the grant to the corporation is of a public and not of a private nature.[3]

A distinction must here be drawn between streets and highways. The former were the urban thoroughfares; the latter were the long avenues such as the Boston Post Road, Bloomingdale Road and Kingsbridge Road, the last extending from the lower part of Manhattan northward through Harlem. In the settled portion of the town the highways were crossed by streets which ran from east to west. Though both the city and the provincial

[1] Fairlie, in *Municipal Affairs*, vol. ii, p. 371.

[2] *Col. Laws*, vol. iv, pp. 838-842.

[3] Kent, *Charter of New York*, pp. 235-237.

governments exercised concurrent control over thoroughfares, the former paid more attention to the maintenance of streets, whereas the latter was more concerned in the upkeep of highways.

Let us first consider the administration of the highways. As they were opened long before 1731, our interest is limited to their maintenance. The province passed five acts after 1731 relating to the highways in New York County. The first of these statutes was passed in 1741, and applied to the Kingsbridge Road, which was ordered to be kept in repair by the inhabitants of all the city's wards.[1] The work was placed under the supervision of three surveyors, who were chosen by the justices of the peace at the court of quarter sessions held in February. Having ascertained what repairs were needed on the highway, the surveyors would summon the necessary number of inhabitants to assemble at a place selected by them, and to supply themselves with spades, pickaxes and other tools. The surveyors could requisition even horses and carts; a team and wagon, together with a driver for one day, being considered the equivalent of three days' labor. One who received notice was not compelled to appear in person, since he was permitted to send a substitute or to pay a charge of six shillings for every day's absence. Ten years later, the same regulations were extended by the provincial legislature so as to apply also to the Bloomingdale Road.[2]

These two acts operated very unsatisfactorily, as they offered an unjust and impracticable plan of highway maintenance. The injustice lay in the method of demanding the same contribution from the poor person as from the wealthy inhabitant who daily deepened the "Ruts with

[1] *Col. Laws*, vol. iii, pp. 162-166. [2] *Ibid.*, pp. 844-847.

his gilded Chariot."[1] Besides this inequitable arrangement, the other defect in the statute was the unrestricted power given to the surveyors. Since they possessed the right to call upon every family in the city wards, either for personal service or for a fee in lieu of labor, there was ample occasion for defrauding the public. Apparently this opportunity was not lost by the colonial surveyor, for we learn that his depredations were so extensive that he was called "a mighty Robber." According to the *Independent Reflector*, the two thousand families of the city were called upon, at least twice a year, to work on the highways; and, as the majority of the inhabitants preferred to pay the fine instead of appearing in person or sending a substitute, the surveyors were able to collect large sums, so large that their own profits were estimated at £400 annually.

Notwithstanding these weaknesses, the two acts were not altered until 1764, when a more systematic plan for maintaining the roads was provided by the provincial legislature. Although the previous statutes had applied to only two highways, the new law called for the regulation of all roadways in the city and county of New York.[2] The defects of the previous acts were eliminated, for the administration of the repairs was transferred from the surveyors to the members of the common council, all of whom were appointed commissioners of highways. They hired laborers and surveyors, who were paid out of funds collected from a general tax on the inhabitants of the city. This act proved more satisfactory than the previous statutes on highways, as it terminated the "graft" of the surveyors, and consequently it was renewed in 1774.[3]

[1] *Independent Reflector*, Dec. 14, 1752.

[2] *Col. Laws*, vol. iv, pp. 838-842.

[3] *Ibid.*, vol. v, pp. 655-658.

Thus we see that the administration and maintenance of highways was transferred from the surveyors to the common council, a body which was certainly more interested in good and efficient regulation of thoroughfares, Before this change in 1764, the common council had seldom concerned itself with the repair of highways. It did order such minor improvements as a survey of the road from Spring Garden to Fresh Water in 1736, also of a public highway from Queen Street to Fresh Water, and a payment for repairs on the road to Sawkill Bridge.[1] After 1765 the common council entered into active administration of the highways by ordering a levy of £300, in accordance with the new provincial act, and by appointing as surveyors Adam and Garrit Van Den Bergh and Adolph Benson.[2] These men were paid six shillings a day and were under the direction of a committee of the common council. This system obtained without change until the Revolution; the same amount, £300, was always raised, the same surveyors were always re-appointed; and a committee of the common council continued to direct the work of repairing the highways.

These are the legislative acts of the province and of the city in regard to highways on Manhattan. From the above analysis it is clear that the jurisdiction of the former over highways was more extensive than that of the latter. On the contrary, the municipality, and not the province, possessed complete control over streets. Provincial legislation on streets is contained in one act, which, in fact, expands the power of the city government, as it was given the right to pave thoroughfares contiguous to vacant lots at the expense of the owners.[3]

[1] *M. C. C.*, vol. iv, pp. 340-341; vol. v, p. 16.

[2] *Ibid.*, vol. vi, pp. 404, 412-413.

[3] *Col. Laws*, vol. iii, pp. 996-998.

The common council made use of this power in ordering the paving of Little Queen Street and also of Thames Street.

In contrast to this one act of the province, there were many ordinances of the municipality concerning streets. As most of the thoroughfares were opened in the Dutch or in the early English period, the street regulations passed after 1731 pertained mainly to grading, paving, and cleaning.

All matters of street regulation coming before the common council were usually referred to a committee, which generally included the alderman and common councilman of the ward wherein street improvements were being contemplated. The grading and leveling of streets offered a nice problem in colonial times, for lower Manhattan then presented a very uneven surface, especially in the Montgomerie Ward. In 1755 a committee was appointed to inspect all streets in this district and in the North Ward, and it submitted a detailed report which clearly shows that the task of grading was difficult.[1] The suggestions of the committee were accepted by the common council, and a number of streets were graded, among them being Queen, George, William, Ferry, Cherry and Frankfort Streets. Several hills in the Montgomerie Ward were razed, and such thoroughfares as Kleaft and Gold Streets were made more level.[2] In 1774 the board conceived the ambitious plan of leveling Golden Hill, one of the highest elevations on lower Manhattan. Objections were raised by a number of freeholders, who protested that their houses would be demolished if such a step were taken; but the work was ordered by the common council.[3]

[1] *M. C. C.*, vol. vi, pp. 25-26.

[2] *Ibid.*, pp. 337, 374.

[3] *Ibid.*, vol. viii, pp. 24, 26, 28.

More important than the leveling was the paving of the city streets. The common council frequently passed ordinances, compelling the inhabitants to pave and keep in repair the streets in front of their respective dwellings. The dimensions and the quality of the paving material were prescribed by the common council, the expense of this work being paid by the landlords of the adjoining premises.[1] The first of these ordinances was passed in 1731, and was continued throughout the colonial period with frequent revisions. After 1766 the common council showed considerable activity in paving the streets adjacent to public buildings, for pavement was laid around the Fort, and around Bowling Green, in front of the City Hall and of Old Slip Market, and on the streets fronting such wharves as Burling's, Peck's and Beekman's Slips.

A description of the material and of the method used in paving the colonial streets is found from various sources. From the colonial laws we learn that the pavement consisted of "sufficient Pebble Stones."[2] Some of this material was brought from places outside of New York city, as is shown by the order in the minutes to pay John Smith of Westchester the sum of £9 for three boatloads of paving stone, and £30 for "sundry Boatloads" in 1774.[3] The cobble pavement sloped from both sides of the street, at a descent of from six to seven inches, to the middle or channel (also written canal, kennel), which was left unpaved, as an open gutter to carry off surface water. As none of the ordinances make mention of sidewalks, it is doubtful whether there were any, unless the owners of the abutting property voluntarily undertook this improvement.

[1] *M. C. C.*, vol. iv, p. 105.

[2] *Col. Laws*, vol. iii, p. 996.

[3] *M. C. C.*, vol. vii, p. 418; vol. viii, p. 5.

Besides grading and paving, the common council faced the problem of street cleaning. According to an ordinance of 1731, all inhabitants residing south of Fresh Water Pond were ordered to sweep together on Fridays all the dirt in the streets contiguous to their houses.[1] This refuse was carried away by the city cartmen at the expense of the citizens, who paid seven pence, half-penny per cart, when loaded by the driver himself, or four pence, half-penny, when loaded by the inhabitant.

Several other ordinances were passed to free the streets from encumbrances and filth.[2] No one was permitted to obstruct the roads with such material as stones, bricks, planks and lumber. These, if not removed within a reasonable time, were to be carted away to the almshouse, and there to be sold, and the proceeds of the sale given to the church wardens. This ordinance was not to interfere with any person who was engaged in repairing or building a house. Again, everybody was prohibited from throwing garbage or ashes into the streets, alleys, or lanes; and a fine of 40s was laid upon any person who emptied ordure tubs into the streets.[3] In order to keep the channels in the middle of the streets clear, no one was permitted to sweep dirt into them on rainy days; also tanners and starchmakers were warned against pouring ill-smelling water into these drains.

In a large community waste matter consists of sewage from houses, excrement, garbage, and surface water formed from rains and snows. In New York city today the problem of disposing of such waste is solved by conducting it through drains and sewers to the surrounding rivers which carry it off to sea. The same

[1] *M. C. C.*, vol. iv, pp. 102-104.

[2] *Mercury*, July 5, 1773.

[3] *M. C. C.*, vol. iv, pp. 103-104.

method was used in colonial times, the Hudson and East Rivers being the ultimate depositories for the refuse from the town. As no sewers for getting rid of excrement were then constructed, all waste was carried at night in tubs to the waterfront and from there thrown into the rivers. This unsanitary custom became a serious menace when docks were built, as the wharves became covered with putrefying matter. Surface water was carried off by the open channels, which ran through the streets to the common sewer, a large chute extending along Broad Street, from the Fly Market to the East River. At first this sewer was of wood and without any covering, so that it had to be bridged at the cross streets, but later it was reenforced with stone and arched with heavy masonry.[1] Several other stone trunk sewers were also laid in Wall Street, near the Meal Market, and near Peck's Slip.[2] Also certain owners of houses situated near the water-edge were permitted by the common council to erect leaders, which drained from their dwelling directly into the river.

We are now confronted with several questions, such as: How successful was the city in regulating its streets? Were they well paved? Were they kept clean? Did the sewage system work satisfactorily? Judged at the time when the period under review begins, these questions would all have been answered in the negative. At the close of the same period, the old order had been changed, for a remarkable advance in municipal sanitation took place between 1731 and 1775.

The streets usually made a favorable impression on those who visited the city. Although Alexander Hamilton, a traveler from Annapolis, described the streets as

[1] *M. C. C.*, vol. v, p. 191; vol. vii, p. 337.

[2] *Ibid.*, vol. v, p. 370; vol. vii, pp. 252, 257.

"narrow and not regular,"[1] a more careful observer, Peter Kalm, stated that they were "very spacious, well-built, and most of them paved except in high places, where it has been found useless."[2] John Adams, who passed through the city in 1774 on his way to the Continental Congress, characterized the streets as "vastly more regular and elegant than those in Boston."[3] In fact almost all authorities agree that the thoroughfares, in later years, were well paved.

At first, the streets were not kept clean, and they, as well as the cellars of the houses, were filled with refuse.[4] These unsanitary conditions naturally led to the outbreaks of sickness. During the summer of 1732 more than six per cent of the white population died.[5] Again, in 1741 and in 1742, the city was visited by severe epidemics. The relation between unclean streets and these ravages was perceived by many officers of the government, and steps were taken to remove such evils. A grand jury called attention to the filthy condition of Wall Street and recommended that the dirt and puddles of water be removed before the coming of warm weather.[6] Again, Sheriff Ayscough in 1747 threatened with prosecution all those who would not immediately clear their doors and the channels before their houses of oyster shells and other offensive substances.[7] The common council also exercised its police power to pass a rigorous ordinance which commanded not only that all streets be kept clean, but also that owners maintain their premises free from filth.[8] As a result of these measures, the condition of

[1] Hamilton, *Itinerarium*, p. 51. [2] Kalm, *op. cit.*, vol. ii, p. 248.
[3] *Works of John Adams* (Boston, 1850), vol. ii, p. 348.
[4] *M. C. C.*, vol. v, p. 119. [5] *Gazette*, Nov. 15, 1732.
[6] Manuscript in Library of N. Y. Hist. Society.
[7] *Post-Boy*, March 2, 1747. [8] *M. C. C.*, vol. v, pp. 118-121.

the streets improved. No further complaints regarding them appear in later years.

Turning aside from highways to byways, we refer to the development of the first public park. In March 1733, the common council leased a piece of land at the lower end of Broadway, directly above the Fort, to John Chambers, Peter Bayard, and Peter Jay, to be "Inclosed to make A Bowling Green thereof with Walks therein, for the Beauty & Ornament of Said Street as well as for the Recreation & delight of the Inhabitants of this City."[1] The lessees received the grant in payment of a nominal sum for a period of eleven years. When the lease expired it was renewed for the same period of time at an annual rental of 20s. This time the lessees were John Chambers, Colonel Philipse, and John Roosevelt.[2] In March 1745, the lessees proposed to cover the ground with turf in order to put it in suitable condition for the bowling matches of the coming summer.[3] These extracts dispose of the more or less common belief that Bowling Green dates back to the days of the Dutch.

In May 1770, the little park was further improved by the setting up of an equestrian statue of King George III.[4] As early as 1771, certain New Yorkers were evidently not manifesting proper respect for their sovereign or for the public park, for we learn that the Green was becoming "a Receptacle of all the filth & dirt of the Neighbourhood."[5] To prevent the continuation of these conditions, the common council ordered a stone foundation for the statue and an iron railing for the Green. Furthermore, the provincial legislature felt called upon to pass an act which threatened any person who willfully defaced statues in New York city with a fine of £500.[6]

[1] *M. C. C.*, vol. iv, pp. 174, 177.
[2] *Ibid.*, p. 61.
[3] *Post-Boy*, March 18, 1745.
[4] *M. C. C.*, vol. vii, pp. 212-213.
[5] *Ibid.*, pp. 281, 290.
[6] *Col. Laws*, vol. v, p. 457.

CHAPTER VIII

Ferries of Lower Manhattan Island

Owing to the insular location of Manhattan, ferry franchises were of the highest importance to the corporation of New York. It will be seen from the following chapter on municipal finance that they proved the most lucrative source of income, at times reaching the sum of £970 annually. Still the ferry rights caused deep concern, for they involved the municipality in a political and legal contest with the town of Brooklyn. This struggle was carried before the executive, the legislature and the judiciary of the province, and resulted in action by all three departments.

Important executive grants relating to ferries were made by Governor Montgomerie in his charter of 1731. This gave the corporation the sole right "of Setling appointing Establishing Ordering and directing . . . Such and So many fferrys round Manhattans Island alias New York Island for the carrying and transporting people Horses Cattle Goods and Chattells." [1] A valuable concession was affirmed in the same charter, which granted the ferries on both sides of the East River, with all the vacant ground between high and low water mark on that part of Long Island extending from the east side of the Wallabout to the west side of the Red Hook.[2] This cession, which included the choicest water front of Brooklyn at Buttermilk Channel,

[1] *Col. Laws*, vol. ii, p. 613.

[2] Kent, *Charter of New York*, p. 211.

gave the municipality complete control over ferries across the lower part of the East River.[1]

The trustees of the town of Brooklyn were incensed because of this transaction, and they determined to break the ferry monopoly by appealing to the provincial authorities. They could expect little favor from the executive, since Governor Montgomerie, having granted this concession, was already deeply impressed with the claims of New York city. But they could appeal to the legislature of the province, which possessed an undoubted right to regulate affairs affecting the Brooklyn ferry. Certainly this lay entirely within the jurisdiction of the colony of New York. Even the corporation of the city of New York conceded that its ferry rights were subject to revision by the legislature.[2] This power was exercised in 1732 by the passage of an act which fixed the ferry rates, some of which are as follows: "For Transporting Every Person . . . two pence in Bills of Credit;" for every horse or beast one shilling was charged, and for every coach six shillings.[3] A large number of commodities together with their corresponding tolls was specified. One curious item provided that for every hundred eggs the ferryman was permitted to exact three as toll. The rates after sunset were double those charged during the day.

The same law contained a recognition of the right of Brooklyn residents to use their own boats for transporting themselves and their personal property across the East River, without paying ferriage to the corporation. This was, after all, merely a reassertion of a clause in the Montgomerie Charter which conceded to those persons having "plantations by the water Side between Wall-about and red hook

[1] Benson *vs.* Mayor, 10 Barbour, 230-232.

[2] *M. C. C.*, vol. iv, p. 20.

[3] *Col. Laws*, vol. ii, pp. 807-813.

the right of transporting themselves and their own goods only in their own boats from and to their respective Dwelling or plantations without paying fferriage." [1] Thus the right of the inhabitants of Brooklyn to ferry across the East River in their own boats, was clearly established both by the legislature, in the ferry act of 1732, and by the executive in the city charter of 1731. However, the corporation ignored these provisions and did not permit persons to cross the East River to or from New York City with ferriage free, even if they went in their own boats.

Pressure was exercised upon the assembly by Brooklyn in order to check the aggression of New York. Threats to deprive the corporation of its ferry rights and even of its charter were made. In 1737 a bill was introduced in the lower house, calling for the repeal of the ferry act of 1732.[2] During the debate, James Alexander arose in defense of the city and delivered a speech similar to those so often heard in our legislative halls in behalf of "vested interests." He held that the object of the bill was to divest the city of a legally vested right, and "as Things of that Nature are of the most dangerous Consequence, and tend to render Property uncertain," he moved its rejection. The house in general did not agree with him, but those supporting the city's interests succeeded in postponing definite action on the bill.

Though repulsed, the trustees of Brooklyn maintained a continuous fight against the ferry monopoly, and in 1745 made a vigorous attempt to have a portion of the provincial act on ferries repealed.[3] A petition was presented describing the hardships of those inhabitants of Brooklyn "who were debared from transporting their Goods in their own

[1] *Col. Laws*, vol. ii, p. 633. [2] *Assemb. Jour.*, vol. i, p. 730.
[3] Hoffman, *Treatise on the Corporation*, p. 282.

Vessels to the said [New York] Markets." [1] The supporters of the corporation's interests resorted to dilatory tactics. Upon the motion of Major Van Horne, representative of New York city, the common council was served with a copy of the petition.[2] Daniel Horsmanden, recorder of the city, and Joseph Murray were retained, with the result that action by the legislature was postponed until the following year.

The same subject was revived in April 1746, when a bill to secure ferry rights for Brooklyn was presented to the house.[3] It passed the first reading, but at the request of Captain Richards from New York city the second reading was deferred till the next meeting. Despite the arguments of Colonel Morris, the motion was carried by a vote of nine to eight, and the bill was then sent to the legislative council.[4] But Horsmanden was a member of this body, and probably through his efforts the bill was rejected.[5]

While seeking to gain redress in the legislature, the Brooklyn trustees also turned to the judiciary, and through one of their number, Hendrick Remsen, brought suit against the corporation of New York. This case is important in the legal annals of New York, because of the significant principle involved, the array of legal talent engaged by both parties, and the length of the litigation. The suit was brought to decide whether an inhabitant of Brooklyn possessed the right to cross the East River in his own boat, or whether the corporation had complete control over all forms of ferriage. To uphold its grants, New York city retained

[1] *Assemb. Jour.*, vol. ii, p. 93.
[2] *M. C. C.*, vol. v, p. 166.
[3] *Assemb. Jour.*, vol. ii, p. 103.
[4] *Ibid.*, pp. 117, 118-119.
[5] *Jour. Legis. Coun.*, vol. ii, pp. 936, 954-955.

James Alexander, John Chambers and Joseph Murray.[1] Brooklyn was successful in securing as counsel William Smith. For thirty years the case of Hendrick Remsen *vs.* Mayor, Aldermen and Commonalty of the City of New York was before the courts, and the controversy terminated only with the outbreak of the Revolution.

The cause for the action originated in June 1743, when the ferryman demanded 2s 1d from Hendrick Remsen for transporting himself and goods in his own boat.[2] Alderman Simon Johnson, after hearing both parties, rendered judgment against Remsen, and ordered him to pay the ferry charges with costs. This he refused to do, and so was ordered to be committed to jail. In December Remsen sued the city, William Smith acting as his counsel.[3] The case was transferred to Westchester, for it was believed impossible to secure an impartial jury for this case in Kings County.[4] In July 1744, the suit came before a trial jury in Westchester. A special verdict was found for the plaintiff on the grounds that "the East River over which the said Henrick did carry the persons and goods aforesaid, from the said lands between the Wallabout and the Red Hook, is a large and public and navigable river used by his Majesty's ships and by other ships and smaller vessels employed in trade and commerce, and hath always been so used from the first settlement of this Colony."[5]

On a writ of error, the case was carried to the supreme court. The corporation based its defense on charter rights, while Brooklyn claimed that even the charter of New York recognized unrestricted transportation across the East River.

[1] *M. C. C.*, vol. v, pp. 110-111.

[2] *Ibid.*, pp. 89-90.

[3] *Ibid.*, pp. 110-110.

[4] Parchment roll no. P. 230 - c 4, county clerk's office.

[5] Furman, *Notes, Geographical and Historical relating to the Town of Brooklyn, on Long-Island*, pp. 26-27.

The claims of New York to the land between high and low water mark on the Brooklyn shore were also denied. It was claimed by counsel for Hendrick Remsen that the charters, issued to New York city by Governors Dongan and Montgomerie, were subsequent to the grants of the water front on Long Island made by Director Kieft in the Dutch period. Hence it was argued that there was no vacant or unappropriated land between high and low water mark on the Brooklyn shore. The case thus continued for a number of years.

While still concerned in the suit, Hendrick Remsen apparently sought a settlement. Negotiations were opened relative to a ferry from his property, known as Remsen's Island, to a point near a pier of the corporation.[1] A number of New York citizens favored such a ferry and expressed this sentiment in a petition to the common council. Hearings on this matter were repeatedly postponed until, in May 1754, the request was rejected by a vote of ten to five.[2] After Remsen's death, the common council apparently tried to disengage his heirs from the case by granting them a water lot fronting their land on Long Island, this of course including docking privileges.[3]

After thirty-two years of litigation, the supreme court in 1775 gave Hendrick Remsen's heirs a judgment of £118, 14s 10d against New York city.[4] According to the decision, Remsen or any other resident of Brooklyn had the privilege of maintaining a boat on the East River and of landing at any point of the Long Island shore, provided he received permission of the owner. This verdict consider-

[1] *M. C. C.*, vol. v, p. 444; vi, p. 247.

[2] *Ibid.*, vol. v, pp. 442-443, 450, 452-453.

[3] *Ibid.*, vol. vii, p. 343.

[4] Parchment roll, P 230-c 4.

ably limited the exclusive ferry rights claimed by the New York corporation. The city made an appeal to the Privy Council early in 1776, but no action was taken because of the outbreak of the Revolution.[1] The decision of the supreme court was undoubtedly just, for the Montgomerie Charter to New York gave the privileges claimed by Brooklyn, but New York city had for many years successfully violated the rights guaranteed to its neighbor.

There was only one authorized ferry to Brooklyn. We shall now consider its administration at length. As in the case of the docks, the corporation, instead of operating the ferry, leased it to individuals. About every five years, the common council advertised the auction of the ferry franchise, and it was awarded to the highest bidder, who paid a specific rental every three months, and in return was allowed to keep all revenues arising from the ferry.[2] To insure the fulfillment of the lease, the tenant was obliged to deposit a bond of £1000. Although many violations of the terms of the lease occurred, this deposit was never declared forfeited. The main burden imposed upon the lessee was the requirement that he maintain the ferry boats at his own expense. In no case did the corporation expend money for such purpose. The boats were not expensive, for they were usually made of heavy, broad boards, with flat bottoms, and seldom had keels. They were navigated by oars, and by one or two sails. The cost of operation was low, for the boats were manned usually by negro slaves.[3] In time, other ferries besides the one in Brooklyn were established, but none was ever operated by the municipality. How satisfactory this plan proved, will be apparent from the following survey.

[1] Furman, *op. cit.*, p. 27.

[2] *M. C. C.*, vol. iv, pp. 175-176, 408-409.

[3] *Ibid.*, p. 461; v, p. 360.

The first lessee, within the period under review, was Theophilus Elsworth, who secured the Brooklyn ferry rights at an annual rental of £258.[1] In 1733, when Elsworth's lease expired, it was renewed with the rent reduced to £245.[2] A difference concerning the matter of repairs arose between Elsworth and the common council. The latter insisted that all repairs were to be made at the expense of the lessee, but, soon after Elsworth's lease was renewed, the common council voted £74 14s 3d for repairs on the ferry house, the barn and the "bridge."[3] Several months later, it paid £21 for beams, planks and shingles for repairing the ferry houses, and added £6 to the bill for liquor consumed by the workmen.[4] During all this time, the lessee failed to maintain the ferry buildings in good order. A committee of the common council reported that they conceived "it to be Mr. Elsworth's Duty at his own Charge to Repair the Landing Bridge &c; if any thing is wanting or Necessary to be done, and that the City Ought not pay or Contribute towards the Expence thereof."[5] Notwithstanding this statement, Elsworth refused to make repairs, and as a result the property fell into a wretched condition.[6]

The financial relations between the corporation and William Cornell, the lessee succeeding Elsworth, were also unsatisfactory. Though the rent was increased to £310, which was £65 higher than Elsworth had paid, this was not clear profit to the corporation.[7] In view of this increment, the common council assumed the entire burden of restoring the ferry buildings on Long Island, and allowed Cornell quite a sum for "dieting of Workmen & Labourers, Labourers

[1] *M. C. C.*, vol. iii, p. 430.
[2] *Ibid.*, pp. 187-188.
[3] *Ibid.*, vol. iv, p. 175.
[4] *Ibid.*, p. 202.
[5] *Ibid.*, p. 342.
[6] *Ibid.*, p. 418.
[7] *Ibid.*, vol. iv, p. 408.

Wages, Moneys paid for quit Rent, Expences of the Committee mending of Glass Windows and ferriage." [1] The ferry master was also relieved of the expense of maintaining a landing on the New York side, as several citizens living near the market house at Clark's Slip agreed to make all necessary improvements.[2] Even this public and private aid did not satisfy Cornell, for in 1739, upon his petition, he received a reduction of £65 from his rent to reimburse him for losses sustained by "the Spreading of Small Pox, which deters both strangers and Travellers from Coming to Town, and the Country People from Coming to Market as Usual." [3]

The practice of repairing the ferry house at public expense was continued under Richard Baker, the next holder of the lease. In August 1743, the common council appropriated £38 for general repairs, and again in November, £22 for glazing, painting and iron work. The following July, £66 was granted to Baker for "Dyett of the Workmen and Ferriage of Materialls Employed in Repairing the Ferry house." [4]

Upon the death of Richard Baker, his widow informed the common council that she was willing to surrender the lease, provided it were granted to Edward Willet.[5] The latter was successful in securing the lease, but was unfortunate in operating the ferry at the time that New York and Brooklyn were engaged in their dispute before the courts. Traffic on the ferry had also been reduced by an epidemic of yellow fever in the city.[6] For these reasons, Willet petitioned for an abatement, and the common council recognized the justice of his claim by subtracting £160 from his rent. Notwithstanding this concession, Willet was far

[1] *M. C. C.*, vol. iv, p. 453.
[2] *Ibid.*, pp. 460-461.
[3] *Ibid.*, pp. 413-414.
[4] *Ibid.*, vol. v, p. 123.
[5] *Ibid.*, pp. 139-140.
[6] *Ibid.*, p. 190.

in arrears.[1] In 1747 the lease was transferred to Daniel Bloom, at an annual rental of £455.[2]

In 1748 the ferry houses on the Long Island side were totally destroyed by a fire which, according to New York citizens, was started by inhabitants of Brooklyn in revenge for their defeat before the legislature.[3] The common Council without delay planned to erect a two-story stone house, forty by fifty feet in dimension, on a site bought of one John Suydam for £275.[4] As much material had to be ferried across the river, the cost of the building was thereby increased. The purchasing of supplies and the hiring of workmen were undertaken by a committee of the common council which met to accept bids every Thursday afternoon, from four o'clock to seven.[5] The supervision of the construction was entrusted to Assistant Alderman Henry Bogert, through whom several hundred pounds were expended for materials and labor.[6] The actual construction, such as the laying of beams, building the roof, and completing the mason work, was entrusted to Daniel and Peter Giraud.[7]

While the corporation was spending hundreds of pounds upon the ferry, it received poor returns. David Bloom paid his rent very irregularly, although it had been reduced in order to compensate him for losses sustained in the fire.[8] Even then the corporation found it impossible to collect £50 of his rent still due. In addition, he operated so few boats that the common council threatened to forfeit his lease, if he failed to "keep and maintain a Scow, a horse boat and

[1] *M. C. C.*, vol. v, p. 240.
[2] *Ibid.*, p. 215.
[3] *Manual* (1862), p. 544.
[4] *M. C. C.*, vol. v, pp. 220, 222-223.
[5] *Ibid.*, p. 263.
[6] *Ibid.*, p. 361.
[7] *Ibid.*, pp. 295, 297.
[8] *Ibid.*, p. 303.

three other boats." [1] By the time his lease had half expired, Bloom, because of his difficulties, asked permission to transfer his ferry rights to Andrew Ramsey.[2]

In September 1750, this change was sanctioned by the common council, but, mindful of disagreements with previous lessees, it demanded definite guarantees of the new tenant. He was always to keep at least one scow and one boat on the New York side of the ferry. Vessels were to come to shore at the dock between Rodman's Slip and the landing at the foot of Wall Street; but, after dark, the ferryman might land his passengers at any convenient place. Later, Ramsey was compelled to see that "one of the said boats shall (wind and weather permitting) be constantly passing and repassing the said ferry, and that two boats shall not remain on the same side of the river at any one time." [3] Misfortune befell the lessee, for he lost two negroes and two boats.[4] Ramsay applied for compensation, but in this case no action was taken by the common council.

In 1753 the lease was granted to Jacob Brewerton and later it was renewed.[5] Affairs between Brewerton and the corporation were very favorable for the former. The erection of the ferry house was still in progress, and workmen employed by the city were boarded with Brewerton, who on one occasion received over £99 for such service.[6] While Brewerton held the lease, the corporation even paid for the illumination of the ferry house.[7] Again, his rent was reduced by £180 in 1767 for "encroachments made upon the rights of the ferry by the Army." [8] The most significant

[1] *M. C. C.*, vol. v, p. 251.

[2] *Ibid.*, p. 306.

[3] Stiles, *History of the City of Brooklyn, etc.* (Albany, 1863), vol. iii, p. 526.

[4] *M. C. C.*, vol. v, pp. 360, 366.

[5] *Ibid.*, p. 392; vi, p. 122.

[6] *Ibid.*, vol. v, p. 441.

[7] *Ibid.*, vol. vi, p. 232.

[8] *Ibid.*, vol. vii, p. 57.

precedent which Brewerton established was the shifting of town and county taxes to the corporation. In 1754 the common council allowed the lessee over £25 to compensate him for taxes on the ferry property on Long Island, collected by Kings County.[1] Thereafter, these taxes were regularly paid by the corporation. In addition to the provincial tax, the city of New York was compelled to pay also a considerable sum to Brooklyn, as the ferry property lay entirely within the jurisdiction of the latter. This tax was always paid grudgingly, and we read that "the mayor Acquainted this Board that the Buildings and Interest of this City at the fferry were Extravagantly Assessed by the Assessors of the Township of Brookland in a higher proportion than other Estates in the Neighbourhood."[2] A committee was appointed to consult with counsel in order to secure redress for the alleged excessive assessment.

In the next few years several lessees of the ferry followed in quick succession. An innovation was made in dividing the privileges between two holders, Captain Francis Koffler and William Pontine.[3] This double lease system lasted three years, after which the sole rights were given to Samuel Waldron for £660.[4] When, in 1770, his term was about to expire, Waldron requested a renewal without the usual public auction.[5] Although such procedure was contrary to all practice, the common council agreed to it, and rented the ferry at the low figure of £550.[6] Two years later Waldron died, and upon the petition of Nicholas P. Bogart the lease was transferred to him.[7] For some unknown reason, Bogart did not accept the lease, and the ferry rights were given to Adolph Waldron.

[1] *M. C. C.*, vol. vii, p. 205.
[2] *Ibid.*, vol. v, p. 234.
[3] *Ibid.*, vol. vi, p. 329.
[4] *Ibid.*, vol. vii, p. 14.
[5] *Ibid.*, p. 246.
[6] *Ibid.*, pp. 260-261.
[7] *Ibid.*, pp. 352, 354.

When Waldron's lease expired in 1774, several changes in the operation of the ferry were discussed by the common council. Common Councilman Benjamin Huggit proposed to abandon the policy of leasing the ferry, and instead to have the city operate it, appointing some one to superintend the ferry boats on the New York side.[1] This very sensible plan was defeated, but the suggestion to increase the number of ferries between New York and Brooklyn was accepted. It was decided to form three, one from Coenties Slip, a second from Peck's Slip, and a third from Fly Slip. Three separate leases, each of two years' duration, were executed in March 1774: the first to Elisha De Grushe, for £20; the second to Samuel Baldwin for £120; the third, including the ferry house, to Adolph Waldron for £230. The new lessees were expected to provide boats at their own expense, as follows: "the one, that purchases the middle ferry, to provide six Boats four Large ones & two small ones, and the two others that purchases the upper & Lower ferrys to provide two Large & one small Boats."[2] The leases were all granted upon the express condition that no reduction of rent should be allowed by the common council. Therefore, when Waldron made such a request, it was promptly refused.[3] Waldron, however, deemed it profitable to renew his lease.[4] The rights to the ferry from Peck Slip went to Thomas Ivory for £60.

From the facts above, the reader must be impressed with the failure of the plan of leasing the ferry rights to individuals. Seldom was the rent fully paid, for almost every lessee secured an abatement. Again, the expense of maintaining the ferry buildings in good order, and the payment of taxes, finally devolved upon the corporation. The only

[1] *M. C. C.*, vol. viii, pp. 6-7.
[2] *Ibid.*, p. 7.
[3] *Ibid.*, p. 79.
[4] *Ibid.*, p. 134.

real burden imposed upon the ferryman was the supplying of boats. The laxity of service is well brought out in a petition which complains of "wearisome delays" at the ferry. Surely the net revenue to the corporation would have been increased, had Common Councilman Huggit's suggestion been adopted. The gross income from the ferry must have been large, for the monopoly of transportation across the East River was complete, since the common council for many years steadfastly refused to permit competition by the establishing of more ferries to Brooklyn.[1]

For many years the ferry to Brooklyn was the only one operating from New York city. An attempt was made to establish a ferry other than on the East River in 1742, when Francis Covenhoven and Samuel Bayard petitioned for privilege to establish a ferry to Weehawken, a community on the Jersey shore of the Hudson River.[2] The common council deferred action indefinitely and then dropped the matter. The subject was revived in 1753, when two petitions were presented to the common council. John Ellison sought the sole right of ferrying from the Half Moon Battery on Manhattan to Dominie's Hook on the Jersey shore, for a period of seven years at a reasonable rental.[3] A month later, several citizens of the South Ward asked the corporation to establish a ferry to Harsimus from the foot of Pearl Street on the Hudson River.[4] No immediate action was taken on either of them.

In time, outside pressure compelled the common council to adopt a more liberal policy concerning additional ferries. Residents of Staten Island secured from the crown the grant of a ferry to New York city, and in 1755 the common council deemed it advisable to concede them ferry privi-

[1] *M. C. C.*, vol. vi, pp. 247, 252.
[2] *Ibid.*, vol. v, p. 67.
[3] *Ibid.*, p. 394.
[4] *Ibid.*, p. 395.

leges for a term of five years.[1] Ten years later, Archibald Kennedy, collector of the port, and William McAdams petitioned for the exclusive right of ferriage across the Hudson to New Jersey, and after a year's consideration the request was granted.[2]

The board had deferred action on Kennedy's petition because of the opposition of Cornelius Van Voorst, a resident of Bergen County, New Jersey. This man claimed that the exclusive grant to any one other than himself constituted an injury to him, as he had erected a ferry at Paulus Hook, New Jersey, and had constructed long roadways to it.[3] Therefore, he requested landing privileges on the New York side. After deliberation, the common council agreed to give Van Voorst ferriage rights for seven years at a rental of £40 per annum.[4] He was permitted to charge only such rates as the board fixed, and, after the expiration of his lease, he was to give the corporation free use of his landing in New Jersey. The lessee was to operate three large and two small boats between his land and the pier of Nicholas Roosevelt at the lower end of Thomas (now Cortlandt) Street. These arrangements lasted only a short time.

In March 1767, the ferry to Paulus Hook was rented at auction to Jacob Van Voorhis of New York city for £310 yearly.[5] This was covered by a bond of £1240. Question arose as to the location of the landing on the New York side, as Alderman Nicholas Roosevelt insisted that only his dock which had been used by Van Voorst should be used by the next lessee.[6] A majority of the common council thought otherwise, and Van Voorhis was given liberty to

[1] *M. C. C.*, vol. v, p. 47; *Calendar of Council Minutes*, p. 367.
[2] *M. C. C.*, vol. vi, p. 417; vii, pp. 2, 8.
[3] *Ibid.*, vol. vi, p. 436.
[4] *Ibid.*, vol. vii, p. 8.
[5] *Ibid.*, p. 62.
[6] *Ibid.*, pp. 61-62.

land at any point between what are now Cortlandt and Dey Streets. The lessee of the New Jersey ferry soon followed the practice of the Brooklyn ferrymen by asking for a reduction of rent. His plea was that the "Road across the meadow Between Powluses Hook in New Jersey, and the upland is at Some times Rendered impassible for foot passengers on account of Spring tides overflowing the same, to the Great Inconveniency of Travellers in Generall and to Your Tennants in particular by Lessning the Revenue of the ferry."[1] In March 1769, financial relief was again sought from the common council.[2] The petition disclosed the fact that Voorhis' partners in the ferry enterprise were Abraham Bussing and Peter and Abraham Mesier. In 1771 the last mentioned secured the lease in his own name at the reduced rental of £120, and three years later he secured a renewal at £210.[3]

A ferry to Hoboken was the last to be established during the colonial period. In February 1775, the common council granted Harmanus Talman permission to land boats at the Bear Market in the North River, for which concession the corporation was to receive £50.[4] Talman soon entered into active competition with Mesier's ferry to Paulus Hook, and the latter lost so much traffic that the common council allowed a reduction of £50 on his rent.[5]

Besides the public ferrymen, several private individuals operated boats across the Hudson to Hoboken, Staten Island and Elizabethtown.[6] Competition was keen, and occasionally unfair tactics were employed by rival owners. This is evident from the following statement of a ferryman who complains that his competitor "told a gentleman, who with

[1] *M. C. C.*, vol. vii, p. 74.
[2] *Ibid.*, pp. 114-115.
[3] *Ibid.*, p. 268; viii, p. 12.
[4] *Ibid.*, p. 78.
[5] *Ibid.*, p. 148.
[6] *Manual* (1862), p. 546.

five others, was going to my ferry that there was no boat there, where at the time I had two boats at Whitehall, by which unfair practices he has stopped many passengers at his ferry who were going to mine." [1]

Ferryboats in the early days were none too safe, and accidents frequently occurred. In October 1764, a vessel belonging to one Johnston, on its way to Staten Island with passengers, horses and carriages, upset and two men were lost.[2] The owner attributed the accident to the interference of the passengers in the sailing and steering of the vessel, and to prevent the repetition of such misfortunes Johnston promised to balance his boats with wood, thus making them more seaworthy.[3]

An idea of the hardships attending traveling by ferry may be had in the experience of Baron De Kalb. In January 1768, while crossing to Staten Island, the scow in which he was, grounded on a sand bar.[4] The passengers were forced to wait until morning before they could complete their trip. From this exposure several died, and some were so frozen that they lost toes or fingers.

Traffic on the ferries across the Hudson varied. It was probably lightest to Weehawken, which is located opposite the present 42d street. The boats to Hoboken were intended to carry produce to the city markets. Those to Paulus Hook were both for passenger and freight service, and were used especially in stormy weather, since they offered the shortest water journey.[5] As the stage-coach route from New York city to Philadelphia passed through Staten

[1] *Gazette*, June 30, 1764.

[2] *Mercury*, Oct. 15, 1764. [3] *Ibid.*, Oct. 29, 1764.

[4] Watson, *Annals and Occurrences of New York City and State* (Phila., 1846), p. 188.

[5] *Gazette*, July 5, 1764; Clute, *Annals of Staten Island* (New York, 1877), vol. i, p. 73.

Island, the ferry from that place was intended primarily to carry passengers.

Thus we see that, before 1730, New York city had but one public ferry. By 1776 at least half a dozen were paying rent to the corporation and were carrying passengers to and from all the nearby shores. In addition several private ferries were competing with these for traffic across the adjoining waters. This alone is an indication of the growth in importance of Manhattan during the later colonial period.

CHAPTER IX

Finance

In previous chapters the various undertakings of the city government have been described. We have seen the workings of the municipal political machinery, the methods of dealing with criminals, paupers and other dependents, the ways of preserving public safety, and the manner of operating such quasi-public enterprises as wharves, ferries, markets and waterworks. In this chapter the same activities will again be considered, but this time from the viewpoint of their financial management.

Although the chapter is mainly a study of the sources of municipal revenue, it is well to begin with a statement of the leading items of expenditure and with a description of the machinery for the collection of the city's funds. Some light has already been shed upon the disbursements of the city government. The amount paid to maintain the watch and the fire department was stated above, and the cost of constructing and operating such public properties as the City Hall, the poorhouse, the hospital, the jails, the docks and the ferries was also shown. These charges need not be repeated here and our study of municipal expenditures may therefore be limited to one field, the cost of operating the government.

Although the municipality, to-day, spends millions of dollars annually in salaries for its officers, in the colonial period the pay roll was almost a negligible factor. Few of the higher officials of the city received salaries, since they

were re-embursed through fees which were paid either by the corporation, or, as was more frequently the case, by the person for whom the service was rendered. The mayor, the recorder, the treasurer, and other officeholders were paid in this manner. Salaries were paid to many of the minor municipal officers. The public whipper, the keeper of the prison, the custodian of the poorhouse, the supervisor of the watch, and occasionally the watchmen, the overseer of the fire engines, the schoolmaster, and the town clerk received regular wages. Payments were usually made quarterly or semi-annually, and it will be recalled from preceding chapters that the amounts were seldom high.

Besides financing municipal undertakings and paying the salaries of the minor officers, the city treasury was called upon to meet a number of miscellaneous expenses. Printing and stationery formed no insignificant item. For engrossing the Montgomerie Charter on parchment the sum of £29 was appropriated, and later the common council ordered copies of this grant printed for distribution among the public.[1] Likewise, a volume containing the municipal ordinances and all the laws of the province relating to the city was published.[2] Occasionally important ordinances of the common council were inserted in the columns of the local newspapers. The cost of these public advertisements is illustrated in one warrant allowing John Holt, the printer, £9 for advertising three by-laws.[3] This patronage was usually bestowed upon a printer favored by the political faction then dominating the common council. Before 1734 William Bradford, of the *Gazette*, received the printing work of the corporation, but after that year he was given only one job, John Peter Zenger, of the *Journal*, a supporter of the popular party, receiving all the rest.[4]

[1] *M. C. C.*, vol. iv, pp. 60, 232.
[2] *Ibid.*, vol. vi, p. 401.
[3] *Ibid.*, vol. v, pp. 249, 252.
[4] *Ibid.*, vol. iv, *op. cit.*, *passim*.

The corporation also went to considerable expense to show its good will toward the sovereign and toward representatives of the crown in America. For instance, on the occasion of the king's birthday "the usual quantity of good Wine" was distributed through the bounty of the corporation.[1] Similar donations were made on the anniversary of the monarch's accession,[2] on Guy Fawkes Day (the fifth of November), and in celebration of victories such as the surrender of Cape Breton.[3] Sumptuous banquets were frequently held on the arrival of a new governor or of a general. The entertainment given in 1773 in honor of General Gage, commander of the British forces in America, cost the corporation over £61.[4] Whenever an honorary freemanship was bestowed upon a distinguished visitor, he usually received, at the cost of about £30 to the corporation, a reproduction of the city's seal, enclosed in a gold box, together with an engrossed address and the text of his "freedom."

The funds of the corporation were cared for by the city treasurer, or, as he was sometimes called, the chamberlain. To hold this office, one needed to be a freeman of the corporation, a resident of the city, and "A Person of good Ability and Reputation."[5] In addition, the incumbent had to place with the commonalty a bond of £1000. This officer was directly responsible to the common council, by which body he was appointed. Despite the fact that his appointment was only for one year, his tenure was usually very long. One incumbent, Cornelius De Peyster, was regularly chosen year after year, regardless of his age, his inability to collect the money from debtors, and his general inefficiency. It

[1] *M. C. C.*, vol. iv, p. 31; vol. v, p. 174.
[2] *Ibid.*, vol. iv, p. 62.
[3] *Ibid.*, vol. v, p. 151.
[4] *Ibid.*, vol. vii, p. 428.
[5] *Ibid.*, vol. iv, p. 115.

was also the intention of the common council to control the office of treasurer by requiring a report of receipts and of expenditures every three months, but it is doubtful whether these statements were regularly submitted. The only actual limitation on the treasurer was an annual audit made by a committee of the common council. Though this work was usually ordered in October, when the term of the board began, the report of the committee was seldom presented before the following spring. These audits, as entered in the minutes of the common council, are quite incomplete, presenting usually but four items, total expenditures, receipts, balance, and the commission of the treasurer. After 1760 even these meagre reports were seldom included in the minutes.

Though no salary was given the treasurer, he was permitted to collect substantial commissions. For example, of the money passing through his hands for the building of a jail and a pest house he was permitted to retain three-fourths of one per cent.[1] Again, on every pound raised through assessments on the property of the inhabitants of the city, he usually received a commission of 6d.[2] By the close of the colonial period, when thousands of pounds were handled by the treasurer, his compensation became excessive. In view of this condition, the recorder suggested to the board the advisability of allowing him a fixed salary, instead of commissions.[3] No action was taken on this proposal, and the treasurer continued to collect his fees.

The most onerous duty of the treasurer was to try to collect bad debts. His failure in his task is evident from the summary of the audits entered in the minutes of the common council. These figures show that the financial status

[1] *M. C. C.*, vol. vi, p. 87.
[2] *Col. Laws*, vol. ii, p. 1063.
[3] *M. C. C.*, vol. viii, p. 23.

of the corporation was especially low in 1756, when, with a balance of but £1 in the treasury, the debts totaled £2827.[1] Occasionally the treasurer was reminded by the common council that it was the "Duty of the Chamberlain or Treasurer of this Corporation to Demand Collect and Receive for the use of this Corporation all such sum and sums of Money Rents and Revenues . . . in Arrears to the Corporation."[2] A list of these debtors was frequently requested by the board. It was prepared either by the treasurer or by the auditing committee of the common council.[3]

The treasurer had at his disposal means of compelling the payment of arrears. In the first place, he could insert in the local newspapers an advertisement giving the names of all persons who owed money to the corporation, and demanding payment before a certain date on penalty of legal prosecution.[4] Upon non-payment of these debts, the chamberlain could then take action against these recalcitrants either in the mayor's court or in the supreme court.[5] In this manner Israel and Timothy Horsfield were sued for not paying the rent due on the market stalls which they had leased from the municipality.[6] On another occasion the common council ordered the treasurer to bring suit against the sheriff of New York county to recover £160 which that officer was unlawfully withholding.[7]

It is thus evident that the office of treasurer was a very desirable one. He was not hampered by any close supervision from the common council, and he was generously remunerated for his services. Aside from the collection of corporate debts, these services were never very burdensome.

[1] *M. C. C.*, vol. vi, p. 49.
[2] *Ibid.*, vol. iv, p. 419.
[3] *Ibid.*, vol. iv, pp. 19, 116.
[4] *Ibid.*, vol. v, p. 292.
[5] *Ibid.*, vol. iv, p. 7.
[6] *Ibid.*, vol. iv, pp. 489-490.
[7] *Ibid.*, vol. v, p. 82.

Additional city officers who aided in the administration of the municipal finances were the vestrymen, the assessors, and the collectors. We need not dwell here upon the duties of the first, for we have mentioned them in the chapter on "Charities and Correction." The position of the second, however, should be described in some detail. This office is of particular interest, as taxation by assessment received its earliest development in New York in the colonial period.[1] Every year, on election day the voters of each ward chose two of their number as assessors. These were duly sworn in with the other officers on the fourteenth of October. It was the duty of the assessors to ascertain the value of all assessable property within their respective wards and submit their reports to the town clerk.[2]

The assessors apparently received no remuneration for their work, for no mention of any reward is made either in the provincial statutes or the municipal ordinances. The collector of taxes on the contrary was paid for his services. He was usually entitled to 9d on every pound which he paid to the treasurer, who acted as the receiver of taxes.[3] Though two assessors were elected in every ward, only one collector was chosen. The voters had need to exercise caution in selecting a person for this office, since any loss suffered through the dishonesty of a collector was sustained by the taxpayers who had elected him.[4] If a collector failed to turn into the treasury the quota required of the ward, an extra assessment was levied upon the inhabitants over whom the defaulting collector had jurisdiction. The corporation

[1] Rosewater, *Special Assessments* (N. Y., 1893), Columbia University Studies, vol. ii, no. 3, p. 372.

[2] *M. C. C.*, vol. iv, p. 426.

[3] *Col. Laws*, vol. ii, p. 1063.

[4] *Ibid.*, vol. iii, pp. 275-277.

required of each collector bonds for the full performance of his duty.[1]

The system of financial administration described above is undoubtedly open to criticism. The loose control over the treasurer, the inefficiency of the vestrymen and the unwise plan of electing assessors and collectors, all proved costly to the city.

Having mentioned the main items of expenditure and having described the machinery for managing the finances of the city, we turn to a consideration of its sources of revenue. These may be arranged under five general heads: (1) franchises and improved properties of the corporation, (2) taxation, (3) loans, (4) public lotteries, and (5) paper money.

The first of these was the steadiest and most dependable means of income. Though the municipality drew upon other sources to meet extraordinary financial emergencies, it relied on the returns from its franchises and properties to meet the regular expenses of government. By totaling the annuities from ferries, docks, markets, public lands, buildings and licenses, the development of the city's income may be traced. From the table presented below, it will be seen that in 1730 the returns from these sources were small. As the Montgomerie Charter brought valuable water rights to the corporation, its revenue increased. Despite the intercolonial wars and the Stamp Act disturbances, the returns continued to rise until in 1767 the sum of £3333 was collected. Thereafter the income of the corporation declined, until in 1772 it had fallen to £2717.

[1] *Col. Laws*, vol. v, pp. 529-531.

MUNICIPAL REVENUE FROM FRANCHISES AND PROPERTIES IN POUNDS, OVER FIVE-YEAR PERIODS [1]

	Ferries	Docks	Markets	Lands	Water Lots	Buildings	Licences
1730	£246	....	....	£28	....	....	£91
1735	243	....	....	5	£33	£2	89
1740	307	£73	....	7	65	2	....
1745	370	90	£105	7	68	2	194
1750	455	110	159	7	99	5	180
1755	650	305	190	40	142	50	172
1760	650	500	245	122	196	50	524
1765	800	550	385	501	225	100	180
1770	970	690	250	374	460	60	230

For many years the returns from the revenue-bearing properties and franchises of the corporation were barely sufficient to meet expenses, and there was no surplus sufficient to meet any extraordinary demand. This was the situation in 1730, when the municipality was desirous of purchasing two new fire engines at a cost of £240.[2] At this time the total revenue of the city scarcely exceeded £360, and, as the need of new fire apparatus was urgent, money had to be raised through a general levy upon the real and personal property of the inhabitants.[3] The right to levy such a direct tax was not granted to the corporation in any of its charters, but could be exercised only when sanctioned by the provincial legislature. Before the tax could be levied, the common council had to submit a formal application to the legislature. A special law for this purpose was then enacted.[4] Although direct taxes were levied almost yearly

[1] From Ledgers nos. 2 and 3; Journals nos. 2, 3, 4, Corporation of the City of New York.

[2] *M. C. C.*, vol. iv, pp. 48, 149.

[3] Durand, *Finances of New York City* (N. Y., 1898), p. 19.

[4] *Col. Laws*, vol. ii, pp. 646-647.

after 1762, the custom of requiring special authorization by the legislature was maintained.[1]

These special laws always placed limitations upon the taxing power of the municipality. The usual restrictions were those upon the gross amount of the tax, the time limit for collection, the manner in which it was to be levied, and the specific purposes for which it was to be expended. Every act usually fixed the maximum sum which the corporation was allowed to collect. For example, the statute of 1730 ordered that the proposed tax was not to exceed the allowance of £300, current money of the colony. The time within which the tax was to be collected was usually the same, the corporation being generally given six months from the publication of the act. The methods of assessing and collecting taxes were specified in various provincial acts. They described the properties which were to be taxed, steps which could be taken to prevent non-payment, and the duties of assessors and of collectors. Almost every act contained the same statement regarding persons who were amenable to taxation. It was uniformly stated that the tax should be levied on " the Estates Real and Personal of all and every Freeman Freeholders Inhabitants Residents & Sojourners within the said City." [2] Apparently this sweeping order subjected all property of all persons within the city to taxation, but for a long time taxes were placed only upon real property. This state of affairs continued as late as 1734, tax books for that year indicating assessments only on houses, lots, grounds and other real estate, and showing no levies on personal property.[3]

[1] Since the colonial period, the city has secured considerable freedom from external control of its finances. Fairlie, *Centralization of Administration*, p. 186.

[2] *Col. Laws*, vol. ii, p. 646.

[3] Tax and Assessment Books, two volumes, comptroller's office. Schwab, *History of the New York Property Tax* (American Economic Association, 1890), pp. 62-63.

As taxes became more burdensome, and as the value of personal property increased because of growing profits in trade, the demand that those not holding land bear an equitable part of the burden of taxation became insistent. In time, this attitude was also taken by the provincial legislators, who in 1741 passed an act against itinerant merchants.[1] Many of these persons in the past had successfully evaded paying taxes by absenting themselves from the city until after assessments were completed. By the new law any one who came into the city for the purpose of selling merchandise, after the taxes had been laid, was required to submit a sworn statement of the value of his or her wares. This act apparently accomplished its purpose, and it was renewed.[2] Other acts of the provincial legislature tended to relieve the taxes of landowners. In 1758 a law was enacted which aimed at shifting the payment of taxes on rented lots or houses from landlords to leaseholders and to tenants of the property. As the former method of taxation had been "found to be Uncertain & Unequal," the statute also provided that "all Real Estates in the City & County of New York, Shall . . . be Rated or assessed, at two third parts of the Rent, or Yearly Income of the Same." [3] In 1770 the legislature passed a law which placed a severe penalty on those concealing property from the tax collectors.[4]

As the legislature always defined the purpose of the levy, the history of direct taxation may be conveniently traced. Since 1693 the tax for the support of the ministry and of the poor in New York city had been levied with more or less regularity. But as this statute had been enacted through the efforts of Governor Benjamin Fletcher, to establish the Anglican church, and not at the request of the city,

[1] *Col. Laws*, vol. iii, pp. 179-181.
[2] *Ibid.*, pp. 449-451, 1142-1143.
[3] *Ibid.*, vol. iv, pp. 306-309.
[4] *Ibid.*, vol. v, pp. 83-85.

it can scarcely be regarded as marking the inauguration of direct taxation by the municipality. Rather it may be said that this practice was initiated through the passage, in 1730, of an act empowering the mayor, aldermen, and commonalty to raise money, mainly for the purchase of two fire engines.[1] This statute differs from other acts on direct taxation, in that it permitted the corporation to levy the tax for three consecutive years, subsequent acts usually allowing a tax to be collected only once. If the corporation desired a tax to be repeated a second year, the original authorization was reënacted into law.

For the next twenty-five years, direct taxes were seldom levied. One tax was levied in 1737, when the corporation was permitted to raise £250 to pay some of its accumulated debts.[2] Four years later the so-called negro conspiracy brought about the establishment of a night watch, and, to defray the charges of maintaining this special force, the legislature permitted the municipality to collect £574.[3] In 1746 two small levies were authorized: one for £36, the other for £80 for paying the salary of the representative of the city in the assembly, and for the fees of the coroner.[4] Another small tax for repairing the public wells and pumps was added to the poor rate in 1753, this being the only tax regularly collected in the city.[5]

After 1756 direct taxes were levied regularly to meet the heavy expenses of the city government. War, which was draining the coffers of European nations, did not spare the treasury of the city. It was compelled to erect barracks for quartering troops, and a new jail for receiving prisoners of war.[6] In addition, several worthy municipal undertak-

[1] *Col. Laws*, vol. ii, pp. 645-647.
[2] *Ibid.*, vol. ii, pp. 1061-1063.
[3] *Ibid.*, vol. iii, pp. 158-162.
[4] *Ibid.*, pp. 542, 619-620.
[5] *Ibid.*, pp. 942-947.
[6] *Ibid.*, vol. iv, pp. 211-213.

ings were begun. One of these was to render streets safer by providing public lamps and hiring additional watchmen. The allowance for this purpose was levied every year, and was added to the poor rate.[1]

The city needed funds for other public enterprises. The water front especially required improvement in order to accommodate the growing commerce of the port, and to this end the corporation planned to build a pier at the west side of Coenties Slip at an initial cost of £700.[2] The municipal revenues were insufficient for this purpose, and the common council was apparently unwilling to raise the amount through taxation. The corporation, thus forced to seek other means of securing money, entered upon the policy of borrowing from its wealthy citizens, and of giving bonds covering twice the amount of the loan. The first of these loans was negotiated in 1750, when the corporation borrowed £260 from Christopher Bancker.[3] To this citizen therefore belongs the distinction of being the first holder of New York city bonds. In the following year a second loan was made, this time of £600, and later a third indebtedness to the amount of £350 was assumed.[4]

From the terms of these three bonds, it appears that the corporation regarded the policy of borrowing money as merely a temporary expedient, for every agreement between the municipality and the bondholder stipulated that the loan was to be paid back within two years. But it was far easier to contract such debts than to discharge them. Therefore, when the time for redeeming the bonds came, the common council deemed it advisable to secure the consent of the holders to a renewal. In order to do this the bonds were

[1] *Col. Laws*, vol. iv, pp. 392, 573-576, 671-673.

[2] *M. C. C.*, vol. v, p. 371. *Vide supra*, p. 152.

[3] *M. C. C.*, vol. v, p. 314.

[4] *Ibid.*, pp. 342, 371.

made more attractive by raising the interest on them from six to seven per cent.[1] Unfortunately, political conditions did not favor liquidation of municipal debts, and the assumption of new debts was encouraged.

About this time the last intercolonial war began. The seriousness of this final struggle with the French was fully appreciated by the city councillors, for, in order properly to equip the poorer citizens, they ordered one thousand stacks of firearms from England. To expedite the shipment of these military supplies, a large sum was immediately required. The revenues of the city fell short of the required sum, and taxes, which required the authorization of the legislature, could not be raised in time. Therefore, the common council was again forced to secure the necessary amount through loans, this time from Alderman Oliver De Lancey, and from the Hon. John Watts, each giving £729 16s 1d sterling.[2]

By 1756 the bonded debt of the city had grown to an alarming extent. The high interest rate of seven per cent made the common council anxious to alleviate its financial burdens, and accordingly a policy of contraction was pursued during this year. No new loan was made, and steps were even taken to cancel some of the old bonds. The municipality operated a lottery, and used the proceeds to discharge four bonds.[3] The loans from De Lancey and from Watts were canceled, partly from a surplus in the treasury and partly by a new loan of £1000, negotiated in 1757.[4] The corporation was fortunate in securing this bond at the low interest rate of five per cent.

From this year until the outbreak of the Revolution, the financial policy of the corporation alternated between ex-

[1] *M. C. C.*, vol. v, p. 471.
[2] *Ibid.*, pp. 21-22.
[3] *Ibid.*, pp. 47, 54-55.
[4] *Ibid.*, vol. vi, pp. 97-98, 104.

pansion and contraction. In 1758 and 1759, new loans amounting to several thousand pounds were assumed in order to discharge the obligations of old ones.[1] During the next four years only three loans were negotiated. The disturbed political conditions incident to the passing of the Stamp Act, however, curtailed the revenues of the municipality, and to meet the growing deficit thousands of pounds were borrowed. The corporation soon found difficulty in meeting its obligations, and many of the loans could not be paid off, so that at the beginning of the war with the mother country New York city owed £13,000.[2] This sum we may regard as marking the origin of the bonded debt of New York.

The rate of interest paid by the city varied. Some of the earlier bonds called for a return of seven per cent, but those made between 1757 and 1763 yielded only five per cent. Through the efforts of Alderman John Bogert, holder of several bonds, the rate was raised to six per cent. It remained at this level until 1771, when all bonds calling for six per cent interest, were withdrawn and a new lot at five per cent was issued. This lower rate was maintained until the Revolution.

The bonds were purchased by many prominent individuals and by several local organizations. Among the bondholders were such well-known New Yorkers as Oliver De Lancey, Henry Cruger, and Pierre De Peyster. The New York Marine Society, the Reformed Dutch Church, and the New York Hospital also held city bonds.

One means of raising funds already mentioned was through the operation of public lotteries.[3] Against this

[1] *M. C. C.*, vol. vi, p. 429.

[2] Black, *Municipal Ownership of Land*, p. 30.

[3] Ross, *History of Lotteries in New York*, pp. 13-22.

method even reputable citizens had no scruples. The plan was first tried by the provincial legislature in 1746, when it ordered a lottery for the purpose of raising £3375 to strengthen the fortifications of New York city.[1] The act of the legislature required the members of the common council to attend the drawing of the lottery tickets in order to assure prospective adventurers of a fair distribution.[2] Though the common council had supervision over this lottery, it in no way added to the income of the corporation, since the entire proceeds went into the treasury of the province. It was not until 1756 that the city of New York made use of public lotteries to secure money for its own needs. As in the case of taxation, the sanction of the legislature was required. Accordingly, the common council addressed a formal petition setting forth the need of £3000 for importing 1000 stacks of arms.[3] Since the corporation was deep in debt and could not raise the entire amount through loans without injuring its credit, the legislature was asked to give its authorization to a municipal lottery. The request was promptly granted.[4] The proceeds of this lottery were not directly devoted to the purchase of arms, for it will be recalled that the corporation in its haste had already given bonds for the purpose, and in consequence the funds from this lottery were used to discharge several loans.[5] Another lottery was later held to provide for the erection of a new jail for the accommodation of prisoners of war.[6] Additional lotteries for the erection of city prisons and for the enlarging of the City Hall were authorized before the close of the colonial period.[7]

[1] *Col. Laws*, vol. iii, pp. 528-538. [2] *M. C. C.*, vol. v, p. 176.
[3] *Ibid.*, pp. 20-21. [4] *Col. Laws*, vol. iii, pp. 1127-1129.
[5] *M. C. C.*, vol. vi, pp. 94-95. [6] *Col. Laws*, vol. iv, pp. 126-134.
[7] *Ibid.*, pp. 160-162, 202-210. *M. C. C.*, vol. vi, pp. 80, 326.

The last of the five forms of financing city undertakings was the issuing of bills of credit. The occasion for striking these notes arose in 1774, when the city planned to construct water works.[1] Several issues were put out until, within two years, they represented a face value of over £9,000.[2]

What general conclusions may we reach as to the condition of the city finances toward the close of the colonial period? Several facts lead us to the belief that it was far from sound. The expenditures were always met with difficulty, for, in addition to the items discussed above, the municipality was subjected to a constant drain in the form of a heavy poor rate and the burden of paying one third of the taxes of the province. Meanwhile the disturbed conditions following the Stamp Act riots injured commerce and made heavy taxes more burdensome. Taxation proving insufficient, bonds and paper money were issued in large quantities. The beginning of hostilities, however, put a sudden end to the issuance of bills of credit before this system could become a serious menace.

[1] *Vide supra*, chapter on "Fire Protection."

[2] *M. C. C.*, vol. viii, pp. 59, 103, 114.

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